

**REPORT**  
**of the**  
**SPECIAL JOINT LEGISLATIVE COUNCIL**  
**EXECUTIVE COMMITTEE**  
**on**  
**THE MARYLAND SALES, USE, AND**  
**ADMISSIONS TAXES**  
**AN IN-DEPTH STUDY**



**November, 1968**

LEGISLATIVE COUNCIL—EXECUTIVE COMMITTEE

TO STUDY THE MARYLAND SALES,  
USE, AND ADMISSIONS TAXES

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## LETTER OF TRANSMITTAL

November 27, 1968

*To His Excellency  
Spiro T. Agnew  
Governor of Maryland*

*To the Honorable  
The Legislative Council and  
The General Assembly of Maryland*

House Joint Resolution No. 66, enacted by the General Assembly in 1968, directed the appointment of a joint legislative—executive committee to conduct an in-depth study of the Maryland Sales and Use Taxes, the Admissions Tax, and other related taxes for the purpose of investigating such aspects as equity, economic effects, compliance, and administration.

Following this directive, the committee made a careful scrutiny of the application of the Sales, Use, and Admissions Taxes, with particular emphasis on the many, varied, and sometimes questionable exemptions. We also made comparisons with other states in regard to application of rates, compliance, and administrative problems. A point to make abundantly clear to all readers is that this report basically was not intended to, nor does it make recommendation for any increase in the taxes we have studied. Without a clearly demonstrable need for additional revenues at this time, we feel that no such recommendation would be appropriate.

What we attempted to do, however, was to accumulate the results of our research and present it in such a manner that, if the revenue picture becomes critical in the future, those responsible for the enactment of revenue-producing legislation will have available to them the benefits of this study and will have readily available the economic impact and revenue-raising possibilities that may be available in this area of taxation. In some instances we have pointed out inequities that we feel exist either in the taxation of certain items or in the exemption of others, and certain administrative procedures which we think could be improved upon.

We particularly want to express our appreciation of the excellent cooperation of the late Edward F. Engelbert, Chief of the Retail Sales Tax Division, whose untimely death immediately preceded the Committee's final deliberations. We also want to thank the other members of the Comptroller's staff for their cooperation, and the Chamber of Commerce of Metropolitan Baltimore for the assistance of Mr. Joseph J. Murnane, Manager of Community Development, in much of our research. Of course, this study could not have been made, nor could this report have been written, without the very capable assistance of Dr. Paul Cooper, Mrs. Anne Carroll, and Mr. John Szymanski.

We sincerely hope that this report will assist in a sensible approach toward solving revenue needs if and when such needs arise in the future.

Respectfully submitted,

SENATOR MEYER M. EMANUEL, Jr., *Chairman*

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

1. Maryland's Sales Tax has been a relatively reliable growth tax since its inception in 1947.

Page 6

2. Maryland relies less heavily upon sales and use taxes for revenue than do other states.

Page 6

3. In terms of per capita yield or yield per \$1000 of personal income from each one per cent of sales tax levied, Maryland's tax produces less than that of most other states. This is due to differences in coverage.

Pages 6 and 7

4. Maryland's tax is one legally imposed upon the purchaser and collected by the vendor, whereas most other states levy a tax on the gross proceeds of the vendor which is passed on to the consumer. While there may be certain advantages in the latter approach, the Committee does not believe there would be any advantage to Maryland in making a change now.

Pages 7 and 8

5. One state precollects its tax at the wholesale level. While the Committee doubts the advisability of this procedure for all sales, it recognizes that it might be advantageous for certain types of sales. It recommends further study by the Sales Tax Division looking toward possible future legislation.

Page 8

6. Certain subdivisions now have the power to levy sales taxes but have used it only to a limited extent. In view of the fact that Maryland has recently given the major subdivision a second broad-based tax (Income Tax), the Committee believes that, generally, the Sales Tax should be reserved for State purposes. Legislation is recommended to prohibit the levy of local sales taxes beyond those now in existence.

Pages 8 and 9

*Legislation*

7. Maryland's rate of 3% is the same as that in a majority of the states, although a number, including states nearby, have higher rates. Rate increases in Maryland would produce in 1969:

From 3% to 4%.....\$47.8 million

From 3% to 5%.....\$96.7 million

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8. Maryland exempts from the tax all sales under 25¢, and restaurant meals under \$1.00. Most states have established minimum taxable purchase prices, but most are at 15¢ or less; and only 3 other states exempt food consumed on the premises. If restaurant meal exemptions were lowered to 25¢, the State's additional revenue might amount to \$4.1 million; and if the minimum on other sales were reduced to 15¢, another \$1.2 million might be realized.

Pages 9 and 10

NOTE: The page numbers following each item refer to detailed discussion in the report. Wherever the word *Legislation* appears, a bill has been prepared.

9. A number of types of sales exempt from the tax in Maryland are generally exempt in all states. The Committee believes that they are clearly justified and should be continued.

Page 10

10. Food sold for off-premise consumption is taxed in 30 states and sales of prescription drugs are taxed in 20 states. The Committee believes the exemptions to be justified in view of the probable regressive nature of such taxes, but notes the following revenue potential:

Food for off-premise consumption.....\$46.3 million

Prescription drugs and medicines.....\$ 2.5 million

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11. The Committee believes that the following items exempt from Maryland's tax have less justification and, if additional revenues are required, their removal should receive first consideration:

Ice for household consumption.....\$0.1 million

Soaps and detergents.....\$1.7 million

Nonprescription drugs and medicines....\$2.5 million

Page 11

12. The tax as applied to certain machinery and equipment was reduced from 3% to 2% last year. While further reduction was anticipated last year and was urged upon this Committee, no change is recommended until a clear picture of the revenue effects of last year's action can be obtained.

Page 11

13. To insure better compliance in payment of taxes due from the sales of boats, the Committee recommends that all sales of boats be made subject to the 3% Titling Tax and be exempted from the Sales and Use Taxes. The revenue transferred would probably be \$84,500 but may be increased over present revenues to \$600,000.

Page 11

*Legislation*

14. To give equal treatment to nuclear fuels in relation to presently exempt conventional fuels, the Committee recommends that they be specifically exempted in the law.

Page 13

*Legislation*

15. The Committee received requests to consider exemption of a variety of other items which are now taxable. No recommendation is made, but practice in other states and revenue effects are shown in Table 3.

Page 12

16. Generally, Maryland does not tax services, whereas many other states do. No recommendation is made regarding these, but the Committee points out the revenue potential in the event additional funds are needed.

Pages 13 and 14

17. Maryland, in company with the great majority of States, does not tax advertising. One reason for the general exemption of this service is that problems of constitutionality are raised. One or two states seem to have overcome this hurdle, and the Committee concludes that

a tax can be successfully imposed if the law is carefully drafted. The revenue which would be produced is estimated to be \$3.6 million.

Pages 14 and 15

18. Casual sales are exempt under Maryland's law only because of the fact that the tax would be difficult or, in some cases, impossible to collect. On the other hand this exemption represents inequitable treatment of taxpayers and increases the possibility of tax evasion. The Committee recommends that all such sales made through auctioneers be taxed and that all casual sales over \$1,000 be subject to the tax if otherwise taxable.

*Legislation*

Page 15

19. Sales made by religious organizations are exempt. It is recommended that such sales be made taxable when made in the regular course of business in competition with others.

Pages 15 and 16

*Legislation*

20. Under the law the taxes must be paid by the purchaser to the vendor at the time the sale is made even though, for certain types of business, it is impossible to determine at the time of the sale whether all purchases, depending upon their ultimate use, will be taxable. The Committee was requested to consider legal authorization of "Direct Pay Permits" to take care of this problem. While it was found that the Comptroller already has such authority for purposes of enforcement, the Committee recommends that the law be amended to authorize the Comptroller, in his discretion, to issue such permits for the convenience of and upon application of a purchaser.

Pages 16 and 17

*Legislation*

21. The law provides that vendors shall remit taxes monthly, but the Comptroller has authority to permit returns on a less frequent basis. In the interest of convenience for small taxpayers, the Committee recommends that quarterly payments be considered for small taxpayers.

Page 17

22. Presently, for several types of business where collection experience has been less satisfactory than for vendors generally, the Sales Tax Division requires that bonds be posted by all vendors in the particular industry, regardless of individual responsibility. In the interest of equity, the Committee recommends that the Division review this practice and at least modify it to allow for reduction or elimination of the bond after reasonable proof of responsibility.

Pages 17 and 18

23. Vendors must now hold their records for a period of six years for auditing purposes, which may be a burdensome requirement for many vendors. It is recommended that the law be changed to reduce this requirement to four years for the assessment, audit, and collection of the Sales Tax, in conformity with the general limitation for the collection of taxes provided for in Section 212 of Article 81 of the Annotated Code but that there be no limitation upon assessment or collection where there is proof of fraud or negligence amounting to 25% or more of the tax due.

Page 18

*Legislation*

24. The Sales Tax Division now starts its action against delinquency when payments have been due 10 days or more. It is recommended that such action be started immediately following the due date.

Pages 18 and 19

25. The Committee is convinced from testimony received that the State is losing considerable revenue from inadequate auditing. A number of recommendations for Departmental action are presented.

Page 19

26. If a taxpayer believes that he has been unfairly treated, the law provides for a series of steps through which he may seek relief. One step is a formal hearing before the Comptroller or his representative. Testimony revealed that such hearings are generally held before a member of the Sales Tax Division. It is recommended that these hearings be presided over by a qualified person who is not a member of the staff of the Sales Tax Division.

Page 20

27. Under the Use Tax, items purchased for use, storage, or consumption in this State are taxable. Property temporarily stored in Maryland for eventual use outside the State poses a problem. By rule, the tax is collected on the purchase price of such property at the time of its importation or storage in the State, and refunds are made when it is removed from the State. It is recommended that the provisions of the rule regarding the tax on such property be incorporated in the law.

Page 20

*Legislation*

28. While it appears that the application of the Use Tax to purchases of race horses may be impractical, it also appears that they may be taxable under the present law. It is recommended that the Comptroller seek advice from the Attorney General regarding this and, if found to be necessary, propose legislation to bring present practice into conformity with the law.

Page 21

29. Generally, the Sales Tax is not applied to admissions and amusements, but they are covered by a different tax. They are subject, statewide, to a tax of  $\frac{1}{2}\%$  of gross receipts; and local governments, unless specifically excluded in the law, may impose additional levies. All revenues collected, whether from statewide or local levies, are returned to the local governments except for amounts withheld to cover cost of collection. Total collections for 1968 amounted to \$1,343,007. If taxed at the level of the Sales Tax, collections would have been increased by nearly \$2,000,000. Because of the relatively low tax rate, the cost of collection amounted to about 11% of the total revenue as compared to about 1% for the Sales Tax.

Pages 21 to 26

30. Recently the Legislature amended the Admissions and Amusements Tax law to exempt bowling. The Committee noted that a number of other similar participatory sports do not enjoy exemption. It believes that all should be treated alike.

Page 26

31. At present rates, the Admissions and Amusements Tax is a relatively small revenue producer. Twenty-five states tax admissions at the sales tax rate. The Committee points out that each additional  $\frac{1}{2}\%$  collected will produce approximately \$450,000, and that a 10% tax would produce \$9,000,000 with no additional administrative cost.

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## MARYLAND RETAIL SALES AND USE TAXES

The Maryland Retail Sales Tax, with its companion the Use Tax, has been one of the most important revenue producers for the State since its adoption in 1947. The following table reveals the growth in revenue from this source for the period since 1960, during which time the present 3% rate has been in effect. Shown also for each year is the percentage of the total general fund that the Sales Tax produced.

Table 1  
Maryland Sales Tax Revenue: 1960-1969

Fiscal Year	Revenue from Sales and Use Taxes	Per cent of General Fund
1960	\$ 74,093,498	34.4
1961	76,776,809	33.8
1962	90,965,266	36.2
1963	96,588,938	35.4
1964	103,003,197	34.5
1965	113,733,669	34.4
1966	127,285,022	34.6
1967	135,981,715	33.4
1968	145,854,951	25.7
1969 est.	152,020,000	23.1

It will be noted that up to the 1968 fiscal year, when the Individual Income Tax was increased substantially, revenue from the Sales and Use Taxes consistently represented more than a third of the General Fund revenues. Thus, in Maryland, they have been a steady and reliable tax source, regularly maintaining the same annual growth as the total tax structure.

Only one other major State tax, the Individual Income Tax, has grown at a more rapid pace. For the period from 1961 to 1967, Sales Tax collections increased from \$76.7 million to \$136.0 million—a growth of 77%. During the same period the Income Tax increased from \$90.4 million to \$181.8 million—a growth of 101%.

Maryland relies less heavily upon the Sales and Use Taxes for revenue than do other states. U. S. Department of Commerce data reveal that, for 41 states which levied a General Sales Tax in 1967, 32 obtained a greater percentage of their total tax revenues from this source than Maryland received. Maryland's percentage was 21.2. The 32 states above Maryland ranged from 22.4% to a high of 49.2%. For the fifty states, general sales tax revenues accounted for 28% of all tax collections as compared with Maryland's 21.2%.

Data from the same source suggests that Maryland's tax, at equal rates, is less productive than is the sales tax of most other states. Of 38 states compared on the basis of 1967 tax yields, 31 collected more money per capita for each 1% of tax levied. Maryland collected \$12.30 per capita for each 1% of its 3% tax levy. The thirty-one states collected amounts per capita for each 1% levy ranging from \$13.37 to \$26.33. Per capita amounts collected by the six states which fell below Maryland ranged from \$12.06 to \$7.78 per capita.



Comparison of yield per \$1,000 of personal income from each 1% of sales tax levied, for the same states, reveals essentially the same picture. For each 1% of sales tax levied, Maryland collects only \$3.66 per \$1,000 of personal income in the State. All but two of the 38 states collect greater amounts, ranging from \$3.67 to \$9.28 per \$1,000 of personal income.

It must be noted that in the foregoing comparisons Maryland's Sales Tax revenue excludes the 3% Titling Tax on motor vehicles, whereas most of the other states include motor vehicles in their tax. However, if corrections were to be made for this, Maryland's relative standing would not change greatly. Clearly the yield of Maryland's tax at comparable rates is less than those of most other states. This can only be explained by differences in coverage (the base of the tax), or differences in administration.

The Committee's study of the taxes covered the following areas: the general nature of the sales tax levied in Maryland, the coverage of and exemptions from the tax, and the administration of the tax. The Committee placed particular emphasis on the second of these areas, especially as it involves exemptions.

## GENERAL NATURE OF THE SALES TAX

### LEGAL INCIDENCE OF THE TAX

The Retail Sales Tax is imposed by Section 325 of Article 81 of the Annotated Code of Maryland. For the privilege of selling certain tangible personal property at retail, and for the privilege of dispensing certain selected services, vendors are required to collect from purchasers a tax at a specified rate, generally 3%. The Sales Tax in Maryland, then, is a tax upon the purchaser, collected by the vendor.

A majority of the sales tax states (29) levy a tax on the vendor based on the gross proceeds from taxable sales, thus placing the full legal liability upon the vendor. In all of these states the tax may be passed on by the vendor to the purchaser, and in 12 of the states it must be passed on.

The Committee devoted considerable discussion to the possibility of shifting the legal incidence of Maryland's tax, since the practice followed by the majority of states appears to have certain advantages. Administration and enforcement might be simplified; and it was revealed that sales to the Federal government, which are not taxable under Maryland's type of tax, would be taxable if imposed on the gross proceeds basis.

Under Maryland's tax, purchases under 25¢ are exempt. Above this amount, the tax imposed, while basically 3%, is an amount of money for various brackets—1¢ for sales from 25¢ to 33¢, 2¢ for sales from 34¢ to 66¢, 3¢ for sales from 67¢ to \$1.00, etc. Thus, while we collect no tax on sales of less than 25¢, we are collecting more than 3% upon most sales because of the bracket system of imposition. In the first bracket, a tax of 1¢ on a 25¢ sale is the equivalent of a 4% tax, while the same 1¢ tax on a 33¢ sale becomes a 3% tax. This increased collection resulting from the bracket system is known as "breakage."

Under the gross proceeds or gross receipts type of tax, the State would gain what it now loses by not taxing sales under 25¢—approximately \$3,000,000. On the other hand it would lose what it now gains through breakage—approximately \$8,000,000.

The Committee was also interested in the effect of a shift in the legal incidence of the tax upon Federal government purchases. Originally Maryland imposed the tax upon purchases made in connection with Federal construction projects, while at the same time exempting State and local government projects. Several years ago, a court opinion required that this procedure be discontinued, resulting in a considerable loss in State revenue. In order to recover these funds, the Legislature, at its last session, changed the law to impose the tax upon all government construction projects. The Committee received testimony from certain governmental units (State Roads Commission and Washington Suburban Sanitary Commission) to the effect that this action will materially reduce the amount of funds they have available for construction of facilities.

The Chief of the Sales Tax Division expressed the opinion that, if the State did not already have a sales tax and was at the point of establishing a new one, it might be desirable to consider the gross sales type of approach. In view of the considerable experience accumulated through administration of the present tax, the acceptance of vendors, etc., however, it would simply create confusion to change now.

*The Committee concluded that any possible advantages to be gained by a change in the legal incidence of the tax would be outweighed by the disadvantages and accordingly recommends no change. It recognizes that revenues lost by certain governmental units through taxation of their purchases have not been offset by other State aid in all cases. However, this balances out in terms of over-all effect upon the Maryland taxpayer.*

#### ADVANCE COLLECTIONS BY WHOLESALERS

Another approach has been taken by the State of Louisiana, where, according to their law, "every manufacturer, wholesaler, jobber, or supplier who sells to anyone for sale at retail any article of tangible personal property the retail sale of which is taxable under this Chapter, shall collect as advance sales tax, two per centum (2%) of the sales price of such articles at the time of sale." It was reported to the Committee that the sales tax revenue in Louisiana had increased appreciably due to these advance collections. It was further reported that Louisiana had a poor collection system before the incorporation of advance collections. Mr. Edward F. Engelbert, Chief of the Maryland Retail Sales Tax Division, advised the Committee that Louisiana had tried their new system out in a few limited areas before making a complete change. He stated that it "might not be a bad idea" to explore the possibility of precollecting the Sales Tax from wholesalers in areas where collection experience is poor in Maryland.

*The Committee concluded that the Louisiana system might be advisable at some time in the future, for certain types of sales, if some unforeseen situation arises. It recommends that the Retail Sales Tax Division give further study to this problem, and, if it is determined that it would be desirable and feasible to precollect taxes on certain products at the wholesale level, request passage of appropriate legislation by the General Assembly.*

#### LOCAL SALES TAX

Another area studied by the Committee is the imposition of a sales tax by local governments. In seventeen states local sales taxes are now being levied, generally state collected and administered. In Maryland, the 1967 Session of the General Assembly authorized the Counties and Baltimore City to levy a local income tax on their residents to a maximum of

50 per cent of the State tax. This action gave the subdivisions additional broad-based taxing power to relieve the property tax burden. It is the feeling of the Committee, therefore, that the Sales Tax should be retained solely as a State revenue source.

Legal consultants reported that Maryland State law does not now prohibit local sales taxes in Baltimore City, Baltimore County, and Montgomery County. The power to levy such taxes has been used to only a very limited extent. Baltimore City and Baltimore County have levied excise taxes on utilities, and all three subdivisions tax hotel accommodations.

*The Committee recommends that legislation be enacted to prohibit the levy of local sales taxes except to the extent they are now in existence.*

Such legislation would not prohibit the General Assembly from granting special permission for rate increases in certain areas for specific purposes, such as was proposed by the Mass Transit Steering Committee in 1968, provided such action is justified.

### TAX RATE

The Sales and Use Tax rate in Maryland is generally three per cent. Only six states levy a lower rate. Twenty-three other states and the District of Columbia levy a three per cent rate. Exhibit B shows the rates in force in the various states from 1960 to 1968. The Committee points out that, should the State need additional funds, the following amounts could be realized in 1969 from an increase in the Sales Tax rate with no change in basis.

Increase to 4%.....\$47.8 million

Increase to 5%.....\$96.7 million

These estimates were prepared by the Retail Sales Tax Division.

### COVERAGE OF AND EXEMPTIONS FROM THE SALES TAX

Sales covered by or exempt from the Retail Sales Tax fall into three general categories: (1) tangible personal property, (2) services, and (3) sales by certain vendors or to certain purchasers. The Committee studied the justification of each exemption. Careful consideration was given to the class of taxpayer each exemption would affect, to the effect on State revenue, and to the practice of other states.

### TANGIBLE PERSONAL PROPERTY

#### Small Sales

Maryland is more liberal than most other states in its exemption of small sales. All sales where the purchase price is less than 25¢ are exempt from the Maryland Sales Tax. While most states set a minimum purchase price for taxable sales, in all but five others this minimum is lower than 25¢; and in the majority it is 15¢ or less.

In its application of the Sales Tax to food purchased for consumption on premises, Maryland grants a further small sales exemption. The minimum taxable sale of such food is \$1.00. Only three other states grant such an exemption.

Estimates of the additional revenue the State might realize in fiscal 1969 if it lowered the amount of the minimum taxable sale are given in Table 2.

**Table 2**

**Revenue Available from Lowering Amount of Minimum Taxable Sale**

Minimum Taxable Sale	Additional State Revenue (in Millions)
<i>Restaurant Meals</i>	
75¢	\$1.8
50¢	3.2
25¢	4.1
0	5.4
<i>Other Sales</i>	
20¢	\$0.7
15¢	1.2
10¢	2.6
5¢	2.9
0	3.0

**Specific Tangible Personal Property Exemptions**

Section 366 of Article 81 specifically exempts a considerable number of sales of tangible personal property from the Sales Tax. The Committee reviewed all of these, giving consideration to the justification and effects of the possible elimination of each.

There were a number of items for which the Committee felt the exemption to be clearly justified. They are items which are generally exempt in all states; some represent basic necessities for which the State should not risk possible denial through imposition of a tax; some would be exceedingly regressive; others support valid policy decisions of the Legislature. These exemptions include crutches, orthopedic appliances, corrective devices and wheelchairs for invalids, water, containers purchased by farmers to transport products he raises, other items for agricultural purposes, farm products, and the American and Maryland flags.

*The Committee believes that these exemptions should be continued.*

Two of the specifically exempt items deserve attention because of their revenue potential, and the fact that they are taxed in many other states. Food for off-premises consumption is exempt in Maryland as well as in thirteen other states. Thirty states tax such sales. If taxed in Maryland sales of food purchased for off-premise consumption would produce \$46.3 million in added revenue. Prescription drugs and medicines are taxed in 20 states, while twenty-three states exempt them along with Maryland. If taxed in Maryland the additional revenue would amount to approximately \$2.5 million.

*The Committee notes that these two exemptions probably have greater justification than many, since the taxation of either of them would tend to increase appreciably the over-all regressivity of the Sales Tax.*

Several of the exemptions appeared to the Committee to be less readily justifiable than the others. *In the event that additional revenues are required, and it is determined that this should be accomplished by broadening the Sales Tax base, the Committee suggests that the removal of exemptions from these items should receive first consideration:*

<i>Ice for household consumption. This is currently a small item but is growing rapidly. It would now produce approximately: .....</i>	<i>\$0.1 million</i>
<i>Soaps and detergents—would produce .....</i>	<i>\$1.7 million</i>
<i>Nonprescription drugs and medicines—would produce .....</i>	<i>\$2.5 million</i>

The Committee briefly reviewed the exemptions for machinery and equipment used in manufacturing and research and development, and for materials used in research and development. These exemptions were enacted at the last session of the Maryland General Assembly for the purpose of placing Maryland in a more competitive position in relation to other states. The tax on machinery and equipment was reduced from 3% to 2%, and that on materials for research and development was eliminated entirely. It was suggested to the Committee that the tax on machinery and equipment should be removed entirely.

*Since we do not yet have a clear picture of the revenue effects of the recent changes in the law, the Committee recommends no further change at this time.*

The Committee also considered items which are currently exempt from the Sales Tax but are otherwise taxed by the State. These include rentals of motion picture films and displays whose gross receipts are subject to the Admissions Tax, tickets to places of amusements, motor vehicle fuel, motor vehicles which are subject to the titling tax, and vessels subject to the titling tax. The Committee recommended that no change be made in any of these exemptions except the last listed, vessels subject to the titling tax. Mr. Engelbert informed the Committee that certain classes of boats which are documented by the United States Coast Guard are not titled and are, therefore, subject to the Sales Tax. He recommended that all boats should be titled. Mr. William B. Matthews of the State Department of Chesapeake Bay Affairs has estimated that such action would transfer revenue amounting to about \$84,500 from General Funds to Special Funds for use of the Waterways Improvement Fund and may possibly increase revenue by \$600,000. Exhibit C is a letter from Mr. Matthews explaining his estimate and the ways in which some loopholes can be stopped if all boats are titled.

*From the testimony received the Committee is convinced that, in the case of boats, greater compliance in tax payment can be achieved if administered under the Titling Tax than under the Sales Tax. Such a shift would result in funds that now are applied to General Fund purposes being used for Special Fund purposes. However, since General Funds are now being used for the waterways improvement program, any transfer of funds that may result can be offset by reduced General Fund appropriations. The Committee, therefore, recommends that sales of all boats be exempted from the Sales and Use Taxes, and that all should be subject to the Titling Tax laws. The Department of Chesapeake Bay Affairs, which administers the Titling Tax, should be charged with the responsibility of defining what constitutes a boat.*

### Requests for Additional Exemptions

The Committee also considered recommendations made by interested parties that certain items now taxable would be placed on the exempt list. Table 3 (on the next page) lists these items, the exemption practice of other states, and estimates of the 1969 State revenue loss if these items were made exempt.

**Table 3**  
**Additional Sales Tax Exemptions Requested**

Exemption Requested	Number of States Which Grant Exemption	State Revenue Loss in 1969 (In Millions)
Fuel for domestic heating	6 complete Pa. exempts coal only	Not available
Gas and electricity for residential or commercial use	15 complete 1 reduced rate	\$5.7
Manufacturing machinery and equipment (Present rate 2%)	15 complete 11 partial	\$7.5
Air and water pollution control facilities	11 complete 1 reduced rate	Not available
Farm equipment (Present rate 2%)	15 complete 7 reduced rate	More than \$1.0
Retailers' fixtures and display equipment	Ohio only	Not available
Motor vehicle rentals when titling tax is paid	Not available*	\$1.1
Materials fabricated into products installed in foreign real estate	Not available	Not available
Nuclear fuel assemblies used in manufacturing, etc.	10 of 12 states with operable nuclear plants	No loss—not now collected
Railroad purchase for Railroad operation	17	\$0.1

\*Most states tax rental and exempt sale

The Committee took the following specific action on these requests for further exemptions.

*Legislation is recommended to give the same exemption to nuclear fuel assemblies that is granted to the sale of gas, oil, electricity, coal or steam. Since there is a portion of these assemblies which is reused, however, this exemption should be limited to the extent they are not salvageable.*

The question of exemption for air and water pollution control facilities was referred to the Committee on Tax Incentives for Waste Treatment Plants.

A special request was made for the exemption of farm equipment when the purchase is made and delivery taken in Maryland by a nonresident for use out of State. *The Committee decided not to recommend this change on the basis that the tax may be offset by a saving in delivery costs.*

#### SERVICES

The following chart, Table 4, contains information supplied to the Committee concerning certain services. *The Committee has made no specific recommendations concerning the taxing of these services. It does, however, point out that this is an area where the Sales Tax might be applied if the State needs additional revenue.*

Table 4  
Services Exempt from the Sales Tax  
*Services Specifically Exempt*

Type of Service	Other States Which Grant Exemption	Estimated Possible 1969 State Revenue (In Millions)
Newspapers	34 completely 7 under certain circumstances	Small
Demurrage charges on gas cylinders	Not available	\$0.5
Telecommunication services <sup>1</sup>	15	\$2.0
Textile rental when essentially cleaning service	Not available	\$0.3
Farm equipment rental	Not available	Probably small
Installation costs separately stated <sup>2</sup>	35	Not available, but is growing
Freight and transportation charges separately stated <sup>3</sup>	39	Not available

### *Other Services*

Type of Service	Other States Which Grant Exemption	Estimated Possible 1969 State Revenue (In Millions)
Auto parking	36	\$0.3
Barber and beauty shops	40	\$2.1 less tax on material
Laundry and dry cleaning	29	\$2.1 less tax on material
Local moving and storage	Not available	Not available
Pest control	32	Not available
Repairs of tangible personal property	28	\$6.1
Repairs of real property	Not available	Not available

#### NOTES:

<sup>1</sup> The Federal government currently imposes a 10 per cent excise tax on telecommunication services. The General Assembly, at its 1968 Session, enacted legislation which will make them subject to the Sales Tax whenever the Federal excise tax is reduced to one per cent or less.

<sup>2</sup> It was reported that there is increasing difficulty in distinguishing between charges for installation which are exempt and those for fabrication which are taxed.

<sup>3</sup> A tax imposed on freight and transportation charges would involve problems of interstate commerce. It has given rise to considerable litigation in the few states where it is imposed. The current Maryland practice complies with Federal recommendations.

### **Advertising**

The Committee deliberated at some length on the possibility of taxing advertising. Laws of two states, Iowa and Arizona, which attempted to impose a sales tax on advertising have been declared unconstitutional. A New Mexico tax on advertising has, however, been held valid. Apparently the biggest hurdle to be overcome in applying the tax in this area is the question of interstate commerce. New Mexico handles this problem by putting the burden of proof on the taxpayer.

Another problem, the question of freedom of speech, was encountered by Baltimore City in 1958 when it attempted to impose a tax on gross receipts from advertising. The Court of Appeals ruled that taxes imposed on advertising by the City ordinances were so single in their nature and the range of their impact was so narrow that their effect constituted a restraint upon the freedoms of speech and press guaranteed by the Constitution. This problem would be overcome if the Sales Tax were imposed on advertising as one of many services subject to the tax.



A request for a ruling concerning the constitutionality of such a tax in Maryland was sent to the Attorney General. The answer is included in Exhibit D. It states that there is no blanket constitutional prohibition to a sales tax on advertising in newspapers and on radio or television broadcasts originating in Maryland, but points out the problems mentioned above.

*The Committee concludes that Maryland could impose the Sales Tax on advertising if the law were carefully written to avoid the interstate commerce and freedom of speech problems. The Retail Sales Tax Division has estimated that repeal of the exemption given advertising would produce annual revenue amounting to \$3.6 million.*

[Editorial Note: As of November 12, 1968, the Iowa Supreme Court reversed the lower court and held that the Iowa tax on advertising is constitutional.]

### SALES BY CERTAIN VENDORS OR TO CERTAIN PURCHASERS

Certain organizations have been granted exemptions under the Maryland Sales Tax law when they are vendors and/or when they are purchasers. These exemptions are listed below with the Committee's action on each:

1. Sales to the State of Maryland or any of its political subdivisions.—The Committee recommends that no change be made.

2. Casual and isolated sales by a vendor who is not regularly engaged in the business of selling tangible personal property. Specifically stated is "the use of an auctioneer shall not make a sale taxable which otherwise is not taxable under this subsection."

The exemption of such sales appears to have some justification, for the collection of the tax on many casual sales might be difficult to administer or enforce. On the other hand, testimony presented to the Committee suggests that considerable revenue is being lost through failure to impose the tax upon sales of items such as mobile homes. Imposition of the tax upon casual sales of this item alone could possibly produce as much as \$100,000 in added revenue. It was suggested that it would be more feasible to administer the tax on casual sales if applied to large items.

*The Committee accordingly recommends that the casual sale exemption provision in the Code be amended to remove (1) all sales made through auctioneers or other regular dealers and (2) all sales over \$1,000.*

3. Sales to any person operating a non-profit religious, charitable, or educational institution situated in this State when such tangible personal property is purchased for use in carrying on the work of such institution or organization.—The Committee recommends that no change be made.

4. Sales of meals by any veterans' organization or any non-profit volunteer fire company, ambulance company, or rescue squad or women's auxiliary thereof.—The Committee recommends that no change be made.

5. Sales made by a bona fide church or religious organization, when made for the general purposes of the church or religious organization. Mr. Engelbert reported in this regard that one religious organization has voluntarily collected and paid the tax on a business it operates. The Committee addressed a question to the Attorney General concerning the legality of imposing the Sales Tax on religious and other charitable institutions. The

opinion received in answer thereto states that the General Assembly can impose a sales tax on religious and charitable institutions, so long as such institutions are not singled out and made the object of a sales tax which does not apply to other vendors and purchasers in general.

*The Committee recommends that sales made by religious organizations in the regular course of business in competition with others should be subject to the tax.*

6. Sales to all financial institutions to the same extent that sales to national banks are exempt under Federal law. This provision was enacted by the 1968 General Assembly as part of the tax revision program to give State banks the same advantage enjoyed by national banks.—The Committee recommends that no change be made.

### ADMINISTRATION OF THE TAX

For the privilege of doing business in Maryland, all vendors who engage in the business of making any retail sales subject to the provisions of the Retail Sales Tax Act must collect the tax. He is allowed to retain 2 per cent of the gross tax collected to cover his expense in the collection and remittance of the tax. The Committee was informed that this allowance does not cover the costs, but no definite request was made for an increase.

### REQUIREMENTS OF VENDORS

Following is a list of vendors' responsibilities in collecting the Sales Tax. With each listing is summarized any relevant testimony or requests for change received and the Committee's conclusions.

A. Obtain a license for which he pays \$1.00. He must have this license in order to avoid paying the Sales Tax on his wholesale purchases.

A person engaged in interstate commerce obtaining goods within the State to be delivered to purchasers out of the State must produce a vendor's license or exemption certificate to avoid paying the tax. It was requested that such a person be permitted to show a bill of lading or other suitable evidence in lieu of the license or certificate.

*The Committee determined that the present procedure may be an inconvenience to business but is a safeguard to tax collection and recommends no change.*

B. For each sale, determine whether or not it is taxable. If taxable, he must compute the tax and show it separately on any record of the sale. If it is an exempt sale of some taxable item (such as materials for research and development), he must take from the purchaser and keep on file a certificate of resale showing the purchaser's license number, or make a record of the exemption number issued by the Comptroller to any agency exempt from the tax.

It was pointed out in testimony by the Chamber of Commerce that certain purchasers, such as manufacturers, cannot always determine whether items will be taxable or nontaxable at time of purchase. They recommended that provision be made in the law for the issuance of Direct Pay Permits to those businesses applying for them so that payments could be made directly by the purchaser to the Comptroller when the tax status is determined.

The Chief of the Sales Tax Division stated that such permits are now allowed by law, and that a few were issued to public utility companies some years ago. He presented the view that the practice is contrary to the fundamental nature of the tax and would make enforcement more difficult, and voiced strong opposition to any further extension.

The existing authority to issue such permits referred to by Mr. Engelbert is found in Section 331 of Article 81, which requires that if the purchaser has failed to pay or the vendor has failed to collect the tax on a taxable sale, such tax must be paid directly to the Comptroller by the purchaser. The section further states that "The Comptroller may, whenever he deems it necessary for the proper enforcement of this subtitle provide by regulation that the purchaser shall file returns and pay directly to the Comptroller ...".

The Chamber of Commerce recommended amending the section of the law dealing with registration and licensing to grant the authority for issuance of Direct Pay Permits "upon application of any licensee". The authority so granted, however, was to be exercised "in the discretion" of the Comptroller.

*It is apparent to the Committee that the Comptroller does now have power to issue such permits. It is noted, however, that the present authority is granted under the enforcement provisions of the law, and the wording suggests that the action may be taken only when proper enforcement has not been achieved. The Committee believes that the granting of Direct Pay Permits may possibly be desirable from the standpoint of the convenience of the purchaser as well as for the purpose of enforcement. Since the change desired would be in the discretion of the Comptroller rather than mandatory, the Committee recommends that the law be amended as requested.*

C. Before the twenty-first day of each calendar month, remit his collections to the Comptroller with a return on the prescribed form showing his gross proceeds and gross taxable proceeds for the preceding calendar month, and any other information necessary for the computation and collection of the tax which the Comptroller may prescribe.

The law now provides that the Comptroller may permit returns to be made for periods less often than monthly.

*In view of testimony which indicates inconvenience to many small taxpayers, the Committee recommends to the Sales Tax Division that it permit quarterly filing by small taxpayers if it is fiscally feasible.*

D. File bond or deposit securities with the Comptroller, whenever the Comptroller deems it necessary.

Testimony regarding this provision revealed that the Comptroller requires surety bonds for all new vendors in three types of business—filling stations, discount houses, and mobile homes. For all other businesses, the bond requirement is invoked only in the case of individual vendors and then only when the need for a bond has been in some measure clearly demonstrated. The reason given for the industry-wide bond requirement for these three specific businesses is that they account for a far greater than normal share of the cases of failure to collect taxes or to remit taxes collected to the State.

*The Committee recognizes that certain businesses, by their very nature, will have a high incidence of noncompliance, and different treatment may be justified in the interest of protecting State revenue. On the other hand, the unequal treatment accorded to an individual businessman who is completely responsible, simply because he is in a business that includes others who are less responsible, should not be taken lightly. The Committee, therefore, recommends that the Sales Tax Division review its practice of industry-wide bond requirements and, at the very least, modify it to allow for the reduction or elimination of the bond after reasonable proof of responsibility.*

**E. Be personally liable for the tax collected, or required to be collected.** If he fails to collect the tax, he is personally liable for the amount uncollected in addition to all other penalties.

**F. Preserve pertinent records of the sales for a period of six years from the time the tax is due and payable.**

Request was made that the six-year limitation for the Comptroller's assessment, audit, and collection be reduced because of the burdensome record-keeping requirements it imposes on business. The general period of limitation set for the collection of taxes by Section 212 of Article 81 of the Annotated Code is only four years. The Comptroller, however, is barred from taking any action to collect amounts due the State after the period of limitation.

*The Committee concluded that the law should be changed to reduce the time allowed the Comptroller for bringing action against persons liable for the Sales Tax to four years unless there is proof of fraud, or negligence amounting to 25 per cent or more of the tax due, in which case there should be no limitation.*

## ENFORCEMENT PROCEDURES

The Committee devoted extensive discussion to the methods and procedures used in enforcing compliance with the Sales and Use Tax laws. No attempt will be made to describe here in detail the procedures that are being applied. It should be sufficient for the purposes of this report to discuss only those matters which seemed to the Committee to present cause for concern.

### Delinquent Accounts

Tax payments by licensed dealers to the State are due on the 21st day of the month. When a vendor's (dealer's) payment has been delinquent ten days after the due date, he is mailed a notice informing him of a 10% penalty plus interest. There are usually 4,000 delinquent accounts at this time. Ten days later, the process is repeated, with the penalty being increased by 25%.

At the time of this second check, delinquent accounts have been reduced to about 2,500. The Committee was advised that about 30% of all payments are received after the 21st of the month. The dimensions of these delinquency figures may be gauged by comparing them with the total number of active accounts which amounts to approximately 50,000 at any one time.

Thirty per cent after the due date, and approximately 8% ten days after the due date, seems to the Committee to represent an unnecessarily high rate of delinquency. Further, the fact that the percentage of delin-

quency is reduced so sharply between the 21st and 31st suggests to the Committee that the high initial rate occurs simply because taxes not paid on the 21st (the due date) are not treated as delinquent. *The Committee, therefore, suggests that the Comptroller consider beginning his delinquency action on the 21st, or have the due date moved to the 31st if there is any compelling reason to do so. In either case, consideration should be given to imposition of delinquency penalties if taxes are not paid on the date legally due.*

### Auditing Practices

For effective administration of a tax system, an adequate audit program is essential. It insures maximum compliance with the law, thereby guaranteeing State revenues; it assures a higher degree of equal treatment among taxpayers; and it assists the taxpayer in collecting and filing properly.

The Chief of the Sales Tax Division testified to the effect that for each \$1.00 now expended for auditing the State is collecting about \$5.00; that he had six vacancies in his auditing staff that he could not now fill because of the freeze in State positions; and that he could profitably use about 25 more auditors.

*The testimony of this and other agencies convinces this Committee that the State is losing substantial revenues because of inadequate auditing. Lack of enforcement results not only in reduced revenues but also, of perhaps greater significance, creates inequity among taxpayers. It is recommended that the Division make a thorough review of its present auditing procedures, first from the standpoint of efficient use of present staff and second from the standpoint of numerical adequacy. The Division should then vigorously seek the funds necessary to employ such additional auditing personnel as can be used effectively. In the light of past experience in filling vacancies, the Division should probably develop a more intensive recruitment program.*

*Action taken by the Committee during its deliberations resulted in removal of the freeze in connection with the six vacancies mentioned above.*

*From testimony of the various tax collecting agencies, the Committee is convinced that information gathered in each could be used more effectively if a greater degree of interagency cooperation existed. For example, during and as a result of the deliberations of this Committee, the Sales Tax Division instituted a system whereby each new license issued is reported to the Income Tax Division. The agencies should methodically explore methods of securing maximum interagency use of pertinent data.*

*Finally the Committee recommends that the Division of Audits of the new Legislative Department of Fiscal Services give attention to the adequacy of existing audit procedures in the tax collection agencies, and that it explore the possibility of a centralized auditing staff for the Comptroller's office.*

### Tax Hearings

Whenever the Comptroller finds that a taxpayer has filed an incorrect report, he levies a deficiency assessment which includes the amount of tax not paid plus any penalty and interest due. Moreover, if he finds that a taxpayer has performed any act tending to jeopardize the tax collection,

the Comptroller must notify the taxpayer and demand immediate payment. If such payment is not made, an assessment is levied against the taxpayer.

Any taxpayer who wishes any revision of the assessment levied against him must so request within 30 days. The Comptroller must act on such request and notify the taxpayer of his action. The taxpayer may, within 30 days, request a formal hearing before the Comptroller. After this hearing, the Comptroller must formally notify the taxpayer of his determination. Within 30 days of such notification the taxpayer may make an appeal to the Maryland Tax Court if he is dissatisfied with such determination.

The Committee has been informed that the formal hearing before the Comptroller constitutes an unnecessary burden on the taxpayer.

Complaints were made that the hearing officer in most cases is a member of the Sales Tax Division staff and, therefore, might not be objective and impartial. On the other hand, the majority of the cases are settled in this formal hearing; and, for those cases which are not settled, they provide a means of formally developing the pertinent facts for the consideration of the Tax Court.

*The Committee concluded that these hearings should be continued but that they should be presided over by a qualified person who is not a member of the staff of the Sales Tax Division.*

## USE TAX

The report to this point has been chiefly concerned with the Sales Tax. Its companion, the Use Tax, is administered by the same division. It is an excise tax levied and imposed on the use, storage or consumption in Maryland of tangible personal property and certain services purchased within or without this State. It has generally the same rates and exemptions as the Sales Tax. The Committee has explored two particular facets of this tax.

### MATERIAL STORED TEMPORARILY IN MARYLAND

To encourage shipments of property into the State for temporary storage and thus bring new business into the State, the Chamber of Commerce requested that the Use Tax be exempted for material temporarily stored in Maryland.

Rule 68 states the following:

"The Use Tax must be paid on the purchase price of all taxable personal property which is purchased for storage in Maryland on and after July 1, 1947. Taxable personal property intended solely for use in other States, but which is stored in Maryland pending shipment to such other States will not be subject to the Use Tax. The tax in such instances shall be paid at the time of the importation or storage of the property within the State and a subsequent credit (see Rule 12) shall be taken by the taxpayer for the amount so paid upon removal of the property from the State."

According to actual practice, therefore, the tax is paid and then refunded. If the property is moved into and out of the State in the same month, there is no actual payment. *The Committee recommends that the law should be revised to include the provisions of Rule 68.*

## RACE HORSES

In the course of its deliberations, the Committee discovered that while the Sales Tax is collected for sales of race horses, the Use Tax is not. The question was raised as to whether such sales are indeed covered by the Use Tax law and, if so, why the tax is not being collected. Testimony was convincing to the effect that it may be impractical to impose the tax.

*Accordingly, it is recommended that the Division seek advice from the Attorney General's office regarding the exact effect of the present law and, if it is found to be contrary to present practice, seek legislation to bring the two into conformity.*

## MARYLAND ADMISSIONS AND AMUSEMENT TAX

### General Nature of the Tax

The Admissions and Amusement Tax is authorized by Sections 402 through 411 of Article 81 of the Annotated Code of Maryland. The law provides for the levy of a uniform State tax of one-half of one per cent of the gross receipts of every person, firm or corporation derived from the amounts charged for (1) admission to any place, (2) admission within an enclosure in addition to the initial charge for admission to such enclosure, (3) the use of sporting or recreational facilities or equipment, and (4) admission and/or cover charge at any roof garden, cabaret or other similar place where there is furnished a public performance.

The law further provides that local subdivisions may levy additional local taxes "to the same extent and in the same manner as that levied by the State." Baltimore City, ten counties—Allegany, Baltimore, Calvert, Dorchester, Frederick, Montgomery, Somerset, Washington, Wicomico, and Worcester—and the municipalities located in these counties, however, have been excluded from this local taxing authority. The other counties are permitted to classify amusements and levy different rates of tax on different classes. Because of this type of taxing authority, there are seven tax rates in the State, as shown by Table I.

In addition to this variety of tax rates which are applied to the gross receipts, the following additional amounts are levied on passes and reduced admissions.

Regular admission charge	Additional tax
50¢ or less	5¢
51¢ - \$1.00	10¢
over \$1.00	15¢

The State Comptroller is charged with the responsibility of collecting this tax, both State and local levies. The revenue, less administrative costs, is distributed to the subdivisions quarterly.

**Table I**  
**MARYLAND ADMISSIONS AND AMUSEMENT TAX RATES:**  
**July 1, 1968**

Political Subdivisions		Types of Activities	State Tax Rate	Add. Tax Rate	Total Tax Rate
All Counties and Incorporated Cities and Towns other than those specified below:		All types of amusements	½ %	none	½ %
Anne Arundel County	Annapolis	Movies, stage theatres, billiard parlors	½ %	none	½ %
		All other types of amusements	½ %	3%	3½ %
	County Area	Movies, authorized civic organizations	½ %	none	½ %
		Golf course greens fees, roller rinks All other types of amusements	½ % ½ %	1½ % 3%	2% 3½ %
Cecil County	Charlestown, Perryville	All types of amusements	½ %	4½ %	5%
	Other Incorporated Towns	All types of amusements	½ %	none	½ %
	County Area	All types of amusements	½ %	1½ %	2%
Harford County	Incorporated Cities and Towns	All types of amusements	½ %	none	½ %
	County Area	All types of amusements	½ %	1½ %	2%
Howard County	All	Movies, theatres, drive-in theatres	½ %	none	½ %
		All other types of amusements	½ %	1%	1½ %
Prince George's County	Colmar Manor and Mt. Rainier	All types of amusements	½ %	1½ %	2%
	Other Incorporated Cities and Towns and County Areas	All types of amusements	½ %	none	½ %
St. Mary's County	Leonardtwn	All coin operated machines (music boxes and vending machines excepted)	½ %	20%	20½ %
		All other types of amusements	½ %	none	½ %
	County Area	Coin operated shuffle boards, bowling alleys and pool table machines	½ %	none	½ %
		Other coin operated amusement devices	½ %	20%	20½ %
		Drag strips All other types of amusements	½ % ½ %	10% none	10½ % ½ %

Source: Tax on Admissions and Amusements, Consolidated Return.



## Revenue Yield

Revenue collected during the last decade is as follows:

Fiscal Year	Amount Collected	Per Cent Increase
1958	\$ 567,699	
1959	636,158	12.1
1960	783,064	23.1
1961	818,406	4.5
1962	916,129	11.9
1963	1,046,429	14.2
1964	1,219,333	16.5
1965	1,339,146	9.8
1966	1,325,005	— 1.1
1967	1,345,877	1.6
1968	1,343,007	— 0.2

The budget revenue estimate for the 1969 fiscal year was only \$579,000, the decrease being due to the elimination of the "slot machines" in four Southern Maryland counties. In the 1968 fiscal year, the Admissions Tax revenue from these machines amounted to \$518,653. Actual receipts for the first quarter of 1969, however, show only a \$64,000 decrease from the same period for the preceding year. Based on this information, it is possible to estimate that the revenue for 1969 will continue to be over one million dollars. This estimate, however, is dependent on the outcome of a court case on the legality of merchandise payoff machines which have replaced the coin payoff slot machines.

Table II shows the 1968 fiscal year revenue from the tax on each type of amusement—what it produced at the present rates, and what it would have produced at uniform rates of 3, 5, and 10 per cent. Table III shows the revenue collected in each county at the present rates and what it would have been at uniform rates of 3, 5, and 10 per cent. These tables were prepared by the Admissions Tax Division of the Comptroller's office.

## Cost of Administration

The cost of administering the tax was \$147,743 for the 1968 fiscal year. This represents 11% of the total amount of \$1,343,007 collected from the tax in that year. This is a relatively high collection cost compared to such major revenue sources as the Income Tax and the Sales Tax where the percentage is only slightly over 1%. In the event that the revenue yield from the Admissions Tax is further reduced as a result of the elimination of slot machines, the ratio of administrative costs to revenue yield would be even less favorable, relatively. The obvious reason for the high collection cost is the generally low rate of levy—averaging about 1%. If the rate had been as high as that of the Sales Tax, the ratio of cost of collection to revenue would have been reduced to approximately 4%.

TABLE II

## Tax Revenues From Admissions and Amusements Tax By Type of Amusments: 1968 Fiscal Year

Type of Amusement	1968 Tax Collections				Estimated Revenue from Uniform Tax at		
	Gross Receipts	Total	Passes	Tax @ Present Rates	3%	5%	10%
Amusement Parks .....	\$ 816,888.00	\$ 8,985.35	\$	\$ 8,985.35	\$ 24,506.00	\$ 40,844.00	\$ 81,688.00
Athletic Events .....	6,655,669.00	48,477.91	6,745.30	41,732.61	199,670.00	332,783.00	665,567.00
Auto Races .....	1,256,197.00	13,037.53	82.35	12,955.18	37,686.00	62,810.00	125,620.00
Beaches .....	486,300.00	14,354.36	17.45	14,336.91	14,589.00	24,315.00	48,630.00
Circuses & Carnivals .....	823,972.00	5,186.95	104.80	5,082.15	24,719.00	41,199.00	82,397.00
Excursions .....	92,430.00	462.16	.....	462.16	2,773.00	4,622.00	9,243.00
Horse Racing .....	3,726,482.00	98,107.23	49,916.15	48,191.08	111,794.00	186,324.00	372,648.00
Motion Pictures .....	21,448,583.00	124,387.36	14,446.65	109,940.71	643,457.00	1,072,429.00	2,144,858.00
Shows, Exhibits .....	522,010.00	3,390.56	.....	8,390.56	15,660.00	26,101.00	52,201.00
Theatres, Operas, Concerts .....	6,510,300.00	52,789.31	20,237.80	32,551.51	195,309.00	325,515.00	651,030.00
Billiards (Non Coin Operated) .....	1,797,750.00	11,249.30	.....	11,249.30	53,933.00	89,888.00	179,775.00
Bingo .....	5,099,205.00	168,160.23	.....	168,160.23	152,976.00	254,960.00	509,921.00
Boat Rides (Fishing, etc.) .....	706,430.00	4,267.94	.....	4,267.94	21,193.00	35,322.00	70,643.00
Coin Machines (Cash Payoff) .....	16,083,565.00	518,653.08	.....	518,653.08	482,507.00	804,181.00	1,608,362.00
Coin Operated Amusement Devices .....	11,708,040.00	78,030.48	.....	78,030.48	351,242.00	585,399.00	1,170,798.00
Concessions (Beaches, Carnivals) .....	2,663,546.00	16,465.58	.....	16,465.58	79,906.00	133,177.00	266,355.00
Golf, Greens Fees, Golf Carts .....	3,842,485.00	25,452.88	.....	25,452.88	115,275.00	192,124.00	384,249.00
Miniature Golf & Driving Ranges .....	825,435.00	5,576.72	.....	5,576.72	24,763.00	41,272.00	82,544.00
Riding Academies .....	342,700.00	1,907.24	.....	1,907.24	10,281.00	17,135.00	34,270.00
Shuffleboard (Non Coin Operated) .....	12,501.00	77.31	.....	77.31	375.00	625.00	1,250.00
Skating (Roller & Ice) .....	706,307.00	4,200.86	22.30	4,178.56	21,189.00	35,315.00	70,631.00
Swimming Pools .....	1,736,027.00	9,511.52	.....	9,511.52	52,081.00	86,801.00	173,603.00
Hotels, Nite Clubs, Music, Dancing .....	18,329,331.00	129,563.57	824.75	128,738.82	549,881.00	916,468.00	1,832,937.00
Miscellaneous .....	89,772.00	712.42	.....	712.42	2,693.00	4,489.00	8,977.00
<b>Totals .....</b>	<b>\$106,281,925.00</b>	<b>\$1,343,007.85</b>	<b>\$92,397.55</b>	<b>\$1,250,610.30</b>	<b>\$3,188,458.00</b>	<b>\$5,814,098.00</b>	<b>\$10,628,197.00</b>
Coin Machines (Cash Payoff) .....	16,083,565.00	518,653.08	.....	518,653.08	482,507.00	804,181.00	1,608,362.00
<b>Receipts Less Coin Machines .....</b>	<b>\$ 90,198,360.00</b>	<b>\$ 824,354.77</b>	<b>\$92,397.55</b>	<b>\$ 731,957.22</b>	<b>\$2,705,951.00</b>	<b>\$4,509,917.00</b>	<b>\$ 9,019,835.00</b>

**Table III**  
**Tax Revenues From Admissions and Amusement Tax By County: 1968 Fiscal Year**

Counties	Gross Receipts	1968 Tax Collections			Estimated Revenues from Uniform Tax at		
		Total	Passes	Tax @ Present Rates	3%	5%	10%
Total State .....	\$106,281,925.00	\$1,343,007.85	\$92,397.55	\$1,250,610.30	\$3,188,458.00	\$5,314,098.00	\$10,628,197.00
Allegany .....	1,299,598.00	6,654.64	156.65	6,497.99	38,988.00	64,980.00	129,960.00
Anne Arundel .....	16,180,543.00	523,359.29	8,274.35	515,084.94	485,416.00	809,027.00	1,618,054.00
Baltimore City .....	32,968,606.00	189,970.48	25,127.45	164,843.03	989,058.00	1,648,430.00	3,296,861.00
Baltimore .....	12,282,120.00	69,370.55	7,959.95	61,410.60	368,464.00	614,106.00	1,228,212.00
Calvert .....	2,409,128.00	12,045.64	.....	12,045.64	72,273.00	120,457.00	240,913.00
Caroline .....	113,228.00	571.54	5.40	566.14	3,397.00	5,661.00	11,323.00
Carroll .....	512,832.00	2,596.56	32.40	2,564.16	15,385.00	25,642.00	51,283.00
Cecil .....	586,588.00	10,126.00	164.95	9,961.05	17,598.00	29,329.00	58,659.00
Charles .....	8,105,384.00	41,277.97	751.05	40,526.92	243,161.00	405,269.00	810,538.00
Dorchester .....	230,252.00	1,171.61	20.35	1,151.26	6,908.00	11,513.00	23,025.00
Frederick .....	1,295,648.00	6,798.19	319.95	6,478.24	38,869.00	64,782.00	129,565.00
Garrett .....	295,986.00	1,511.38	31.45	1,479.93	8,880.00	14,799.00	29,599.00
Harford .....	828,710.00	8,943.00	157.25	8,785.75	24,861.00	41,436.00	82,871.00
Howard .....	1,385,259.00	18,348.75	920.95	17,427.80	41,558.00	69,263.00	138,526.00
Kent .....	314,042.00	1,570.21	.....	1,570.21	9,421.00	15,702.00	31,404.00
Montgomery .....	8,834,078.00	55,792.34	11,621.95	44,170.39	265,022.00	441,704.00	883,408.00
Prince George's .....	10,436,702.00	87,341.79	27,794.85	59,546.94	313,101.00	521,835.00	1,043,670.00
Queen Anne's .....	295,282.00	1,480.91	4.50	1,476.41	8,858.00	14,764.00	29,528.00
St. Mary's .....	1,766,911.00	264,338.16	20.40	264,317.76	53,008.00	88,348.00	176,696.00
Somerset .....	139,692.00	698.46	.....	698.46	4,191.00	6,985.00	13,969.00
Talbot .....	358,984.00	1,830.52	35.60	1,794.92	10,770.00	17,949.00	35,898.00
Washington .....	1,818,202.00	12,883.86	3,792.85	9,091.01	54,546.00	90,910.00	181,820.00
Wicomico .....	855,988.00	4,396.84	116.90	4,279.94	25,680.00	42,799.00	85,599.00
Worcester .....	2,968,162.00	19,929.16	5,088.35	14,840.81	89,045.00	148,408.00	296,816.00

### Nature of Testimony Received

The Committee invited interested parties to appear before them to make any statements they felt were pertinent. A list of those who testified is shown in Exhibit A. The consensus of those from the amusement industry who were heard seemed to be that the margin of profit in the industry would not support any increase in this tax. Any increase would, therefore, have to be passed on to the patrons. This increase in cost to the patrons might in turn reduce ticket sales. Several of those who testified also pointed out inequities involved in the tax on reduced admissions.

The Maryland Association of Counties offered no formal recommendations during its presentation before the Committee but did comment that several counties were utilizing the local option authority, and that the authority had not been utilized to a greater extent because of the ten counties and the City of Baltimore being exempted. The Association pointed out that with the phase out of slot machines the Admissions Tax would not be as large a revenue source as it had been in previous years but that a local admissions tax would probably result in more counties imposing this tax. The Association also noted the high percentage of collection costs to revenue.

Mr. Charles L. Benton, Director of Finance for Baltimore City, also appeared before the Committee. He stated that the City is in favor of making the Admissions Tax a local tax, locally controlled and administered.

### Conclusions and Recommendations

As with the Sales and Use Taxes, the Committee examined the exemptions from the Admissions Tax. It particularly noted that bowling was exempted from the tax by action of the 1966 Session of the General Assembly. Counsel for the Maryland Bowling Proprietors Association in a letter addressed to the Chairman of the Committee dated July 11, 1968, stated that "the singular thing about bowling which differentiated it from the other activities is that it is a sport in which people participate, as opposed to being merely spectators." Other participating sports—archery, golf, riding, shuffleboard, skating, and swimming—are, however, subject to the tax. These sports produced tax revenue amounting to \$46,700 in 1968. The tax collected from bowling in 1966, the last full year in which it was collected, amounted to \$75,391. *In the interest of equity, the Committee feels that all participating sports should be treated alike.*

The Committee also considered the various rates of taxation applied. It noted that 25 states levy a tax on admissions at the sales tax rate.

The Committee recognizes that at the present rates the Admissions and Amusement Tax is a poor revenue producer. It points out that if the State should want to use this tax as a source of revenue at some time in the future, *each additional 1/2% collected would produce approximately \$450,000 and that a 10% tax would produce \$9 million, with no additional administrative cost.*

## Exhibit A

### PERSONS WHO PRESENTED STATEMENTS

to the  
Special Committee Studying the Sales and Use Taxes,  
the Admissions Tax, and Other Related Taxes

#### *Sales and Use Taxes*

- Chamber of Commerce of Metropolitan Baltimore  
William B. Guy, Jr., Chairman of Taxation Committee  
William Wilson  
Joseph J. Murnane, Manager Community Development
- Commission on Governmental Efficiency and Economy  
Eugene M. Thomas, III, Staff Director  
William E. Wright, III, Research Associate
- Restaurant Association of Maryland  
Jimmy Wu, President
- Maryland Council of Retail Merchants, Inc.  
Edward J. McNeal, Secretary
- Maryland—Delaware Press Association, Inc.  
George Delaplaine, Jr., Chairman of Legislative Committee  
James Doyle, Hearst Interests  
James Garland, Abel Interests
- Maryland Pharmaceutical Association  
Milton Friedman, President  
Nathan Gruz
- Maryland Bankers' Association  
John A. Blondell, Attorney
- Walter G. Coale, Inc., Churchville, Md.  
Mitchell Coale, President
- Maryland Racing Commission  
James A. Callahan, Executive Secretary
- General Supply and Equipment Co., Inc., Baltimore, Md.  
John C. McDonald, Treasurer
- Maryland Railroad Association  
Matthew J. Smith, Executive Secretary
- WLMD Radio, Laurel, Md.  
Thomas S. Carr, Vice President, General Manager
- Clinton D. Carr and Co., Inc. Advertising  
Clinton D. Carr
- Schecter and Levin, Advertising Agency  
Jack L. Levin
- Maryland Horse Breeders' Association  
Snowden Carter
- Laurel Race Track  
Frank Brady, General Manager

Pimlico Race Track  
 Barkley O'Dell, General Manager

Horsemen's Benevolent Protective Association  
 Fendall Claggett, Vice President

Paulin Publishing Company  
 Walter Dowie, Advertising Manager for Leo J. Paulin, Publisher

Baltimore Guide  
 Nelson Lassen, Owner

Chesapeake Council, American Association of Advertising Agencies  
 Albert G. Salter, Member of the Board of Governors

George Roman Advertising, Inc.  
 George Roman, Owner

Women's Advertising Club of Baltimore  
 Mrs. Jean Losure

Baltimore Typographical Union No. 12  
 Hammond Bowerman, President

AFL-CIO District Union  
 Dominic Fornaro for Charles A. Della, President

Real Estate Board of Greater Baltimore  
 Philip Chase, Jr., Vice President

Maryland District of Columbia Delaware Broadcasters' Association  
 Thomas J. Dougherty, Office of Metromedia, Inc.

Chesapeake AP Broadcasters Association  
 George Dietrich

Chesapeake and Potomac Telephone Company  
 Orville Wright

Baltimore Gas and Electric Company  
 Austin E. Penn, Chairman of the Board  
 Joseph R. Weger, Assistant Secretary and Assistant Treasurer  
 Robert Davies, Chief Mechanical Engineer

The Laundry Dry Cleaning Institute of Baltimore, Inc.  
 Daniel L. Senft, Jr., Executive Secretary  
 Charles E. Mitchell, Jr., President

Comptroller of the Treasury, Income Tax Division  
 Benjamin J. Marsh, Chief

Mayor's Task Force for Liaison with the General Assembly  
 Janet L. Hoffman, Fiscal Advisor to the Baltimore  
 City Council, for William Donald Schaefer, Co-Chairman

Maryland Municipal League  
 Robert Helfrich, Acting Executive Secretary

State Roads Commission  
 Morris M. Brodsky, Chief Assistant Comptroller

Washington Suburban Sanitary Commission  
 Paul T. Sisson

Department of Chesapeake Bay Affairs  
William B. Matthews, Jr., Boating Specialist

Printing Industries of Maryland, Inc.  
William Pistell

Maryland Optometric Association  
William Cahill, Attorney

Maryland Funeral Directors Association  
Mrs. Madeleine Meyers, Comptroller, Leonard J. Ruck, Inc.

American Institute of Architects  
James I. Campbell, Vice President

Parking Operators Association  
Solomon Liss  
Allen Quinn

*Admissions Tax*

Maryland Association of Counties  
William S. Ratchford, II, Executive Secretary

Theatre Owner's Association  
Pacey

Maryland Racing Commission  
James A. Callahan, Executive Secretary

Bowling Proprietors' Association  
Eugene M. Feinblatt, Attorney  
David P. Gordon, Attorney

Baltimore Orioles  
Joseph P. Hampner, Jr., Vice President

Baltimore Clippers  
Terry Reardon

Baltimore City  
Charles L. Benton, Director of Finance

Pimlico Race Track  
Barkley Odell, General Manager

Music Fairs, Inc.  
Sheldon Gross  
Nicholas Shriver, Attorney

Morris Mechanic Theatre  
Timothy Fox

**Exhibit B**  
**Sales Tax Rates by State: 1960-1968**

State	Sales Tax Rate by Year of Levy								
	1960	1961	1962	1963	1964	1965	1966	1967	1968
Ala.	3	3	3	3	4	4	4	4	4
Ariz.	3	3	3	3	3	3	3	3	3
Ark.	3	3	3	3	3	3	3	3	3
Calif.	3	3	3	3	3	3	3	3	4
Colo.	2	2	2	2	2	2	3	3	3
Conn.	3	3	3.5	3.5	3.5	3.5	3.5	3.5	3.5
D. C.	2	2	2	3	3	3	3	3	4
Fla.	3	3	3	3	3	3	3	3	4
Ga.	3	3	3	3	3	3	3	3	3
Idaho	..	..	..	..	..	..	3	3	3
Ill.	3	3	3.5	3.5	3.5	3.5	3.5	4	4.25
Ind.	..	..	..	..	2	2	2	2	2
Iowa	2	2	2	2	2	2	2	2	3
Ka.	2.5	2.5	2.5	2.5	2.5	2.5	3	3	3
Ky.	..	3	3	3	3	3	3	3	5
La.	2	2	2	2	2	2	2	2	2
Me.	3	3	3	3	4	4	4	4	4.5
Md.	3	3	3	3	3	3	3	3	3
Mass.	..	..	..	..	..	..	..	3	3
Mich.	3	4	4	4	4	4	4	4	4
Minn.	..	..	..	..	..	..	..	3	3
Miss.	3	3	3	3	3	3.5	3.5	3.5	5
Mo.	2	2	2	2	3	3	3	3	3
Neb.	..	..	..	..	..	..	..	2.5	2.5
Nev.	2	2	2	2	2	2	2	2	3
N. J.	..	..	..	..	..	..	..	3	3
N. Mex.	2	2	2	2	3	3	3	3	3
N. Y.	..	..	..	..	..	..	2	2	2
N. Car.	3	3	3	3	3	3	3	3	3
N. Dak.	2	2	2	2	2.25	2.25	2.25	2.25	3
Ohio	3	3	3	3	3	3	3	3	4
Okla.	2	2	2	2	2	2	2	2	2
Pa.	4	4	4	4	5	5	5	5	6
R. I.	3	3	3	3	3.5	4	4	5	5
S. Car.	3	3	3	3	3	3	3	3	3
S. Dak.	2	2	2	2	2	2	3	3	3
Tenn.	3	3	3	3	3	3	3	3	3
Tex.	..	..	2	2	2	2	2	2	3
Utah	2	2	2.5	2.5	3	3	3	3	3
Va.	..	..	..	..	..	..	..	2	3
Wash.	4	4	4	4	4	4	4.2	4.2	4.5
W. Va.	2	2	3	3	3	3	3	3	3
Wis.	..	..	3	3	3	3	3	3	3
Wy.	2	2	2	2	2	2	2.5	2.5	3

Source: *Sales Taxes in Maryland*; Chamber of Commerce of Metropolitan Baltimore; September, 1968.



**Exhibit C**

**STATE OF MARYLAND  
DEPARTMENT OF CHESAPEAKE BAY AFFAIRS  
STATE OFFICE BUILDING  
ANNAPOLIS, MARYLAND 21404**

**FROM:** William B. Matthews, Jr.                      **DATE:** September 23, 1968  
Department of Chesapeake Bay Affairs

**TO:** Department of Fiscal Services

At the request of Mrs. Carroll, I am writing an estimate of the amount of Sales Tax funds that would be transferred to Special Funds if all boats were titled. This as you know, is a difficult task as I have no true figures on which to base my estimate. Also there are so many ramifications that I thought it best to write explanations of how I estimate the figure of \$84,473.00 instead of just stating it. I am sorry that this became so long but as a shipmate of mine when working on my boat says, "There is nothing easy about a boat." This includes explaining the tax on them.

First, let us consider Documented Vessels. There are so many ways a person can evade or avoid (I am not sure which is the right word to use) paying the Sales Tax on the purchase of this class of boat that I doubt if more than 10% ever pay it. Some of the methods used are:

1. Most new vessels are delivered out of the state. I buy a boat from a dealer and tell him I shall take delivery at Delaware City, Delaware. I may even get on the boat at Annapolis and ride with him through the C & D Canal. However, as soon as we cross the Delaware line, he hands me the papers and I take delivery. There is no Sales Tax in Delaware so I save a lot of money. I know nothing illegal in this method. I could have easily bought it subject to a shakedown cruise and certain tests. For example, the U. S. Navy had officers and men on the new carrier JOHN F. KENNEDY from the day the keel was laid until all of her trials were run, but it was the property of the Newport News Shipbuilding Company until the papers were turned over and the commission pennant was hoisted.

2. Most people having a boat built by local builders pay only tax on the materials. These are usually work boats, but I know of at least one shipwright building pleasure boats and I am sure there are more using this method. I go to a builder and tell him I want a 40' cruiser and he gives me a price of \$25,000. However, as he is building it, he sends me bills for lumber, screws, hardware, etc. and included in each is an item of Sales Tax on the material. Also on the bill or on a separate one is an item of "labor" and there is no Sales Tax on labor. In the end I pay out the \$25,000.00 but the amount of Sales Tax is only on materials, a small portion of the total.

3. I buy a used boat. If it is from a dealer, I have it delivered out of state; if from an individual, it's a "casual sale" and not subject to tax. I know of people buying a numbered boat insisting that it be documented before the purchase, thereby paying no sales or title tax. Others when selling make sure their boat is documented first in order to speed the sale or in the hope of getting 3% more.

4. For used boats, many times dealers act as brokers. Even though they are supposed to collect the tax, unless they are "disclosed dealers,"

as explained to me by Mr. Englebert, I doubt that many collect it. It would surprise me if one in a hundred used documented vessels pays Sales Tax.

Now to estimate the amount of money, I have checked with the Documentation Office of the Coast Guard in Baltimore and Washington in an endeavor to ascertain the number of vessels documented annually. Washington could tell me exact number (295 last year), but Baltimore was a guess of 400 to 500. Both of these included transfers as well as new vessels and also included yachts as well as work boats. I have been unable as of this writing to get an estimate from Annapolis, Cambridge or Crisfield, the other offices in Maryland. Washington estimates that 80% of their boats are yachts, Baltimore 70% and, after discussion with them, we estimate that 50% for Annapolis and Cambridge and Crisfield would almost be entirely commercial. If Baltimore and Washington have a maximum of 800 boats a year between them it is doubtful if the remainder have more than 700 as I shall use a figure of 1500.

Our experience with numbered boats shows that, of the new and transfer certificates issued each year, 40% are for new boats and 60% transfers. Since I don't believe that the turnover in documented vessels is as great as numbered ones, I shall use a 50—50 basis. Also, after the discussions with the documentation offices, I will assume that 50% of the annual documentations are yachts. This would mean 750 yachts and 750 work boats.

On the present market new yachts fully equipped of the size large enough to be documented (32' and over) sell from \$600 a foot to \$3000 a foot depending on the make. Since the large majority of vessels sold are the popular price makes (Fords not Cadillacs) I shall use \$1000.00 a foot. As far as size is concerned, I think that 38' would be a fair average. As for used boats I shall use \$500.00 a foot. Therefore we have:

#### *Yachts*

Possible:	325 new @	\$38,000.00—\$12,350,000 @ 3%—\$370,500.
	325 used @	\$19,000.00—\$ 6,175,000 @ 3%—\$185,250.
Probable:	10% of new:	\$37,050.
	1% of used:	\$ 1,853.
	Total	\$38,903.

Work boats present a knottier problem. They will range all the way from the usual open tonging boat with a small cabin, which will sell new for \$3000 to \$4000, to oyster "Buy Boats," which will go up to \$70,000 and \$80,000. Of course, the expensive ones are few. I think it fair to take \$5000 as the average price for all new ones and \$2000 for used ones. Although I don't think as many work boats as yachts pay Sales Tax, I shall use the same proportions:

#### *Workboats*

Possible:	325 new @	\$5,000—\$1,625,000 @ 3%—\$48,750.
	325 used @	\$2,000—\$ 650,000 @ 3%—\$19,500.
Probable:	10% of new:	\$4,875.
	1% of used:	\$195.
	Total	\$5,070.

Estimating the tax return on vessels that are neither documented or numbered is more difficult than for the documented ones. However, the amount of money involved per boat is not as great. These boats would run from dinghies and row skiffs, costing from \$100. to \$200., to 24' sailboats with a small auxiliary engine of 7½ HP or less priced up to about \$5,000. Although there is some evading/avoiding Sales Tax on these boats, especially in the area near Delaware, it is not nearly as much as with documented vessels. One reason is that a great number of these are sold at stores and that a run through the C & D Canal in a 24' sailboat even if it had a 7½ HP engine may take a very long time. Also since these boats are less expensive, the tax is less and therefore the objection to paying is also less. I would say that 90% of these boats pay the tax on new boats.

When it comes to used boats there is a different situation. Almost all of these, when used, are sold between individuals. Therefore, I shall not consider used boats at all because the amount would be too small.

I think that I am more than fair in stating that the average price for a new boat would be \$1,000. and that 1500 are sold annually. I would like to note that the average sales price of registered boats, new and used combined, has been between \$1,200. and \$1,500 since the title tax was imposed. However, now that we have an auditor assigned to boating, I would not be surprised if this average price increases. I had estimated \$2,000 a boat when the act was passed. Therefore:

#### *Undocumented and Unnumbered Boats*

Possible: 1500 @ \$1,000—\$1,500,000 @ 3%=\$45,000.

Probable: 90% of above=\$ 40,500.

To summarize my estimate which is a very rough one:

#### *Annual Sales Tax Transferred To Boat Title Tax*

	Probable	Possible
New Yachts .....	\$37,050.00	\$370,500.00
Used Yachts .....	1,853.00	180,250.00
New Workboats .....	4,875.00	48,750.00
Used Workboats .....	195.00	19,500.00
New "Smallboats" .....	40,500.00	45,000.00
<b>TOTAL</b> .....	<b>\$84,473.00</b>	<b>\$664,000.00</b>

I think that some of these loopholes can be stopped if all boats are titled. As a matter of fact, there is now legislation before the Congress that would require the numbering of all motorboats; this would greatly reduce the Sales Tax from the "Smallboat" category. I have been rewriting the titling sections of the Boat Act in order to be prepared and to see what difficulties arise. At the present time, as I understand the Sales Tax, it is imposed on boats delivered in the State. In my rewrite I have stated that all boats "principally using the Waters of Maryland, sold or delivered in this State" must be titled. The wording of "principal use" has precedent as it is a requirement in the numbering of boats. As far as "sold or delivered," I would have to get advice from Mr. Englebert or attorneys.

I also require that the sale of every boat be reported along with the gross price received, and the purchaser would have 15 days to make application. The dealer would have to turn over within 48 hours any monies he had taken in behalf of the purchaser. At the present time we have dealers holding funds for two and three weeks.

There is another loophole that should be stopped. I could have put this with the methods of evading/avoiding the tax, but it applies to numbered as well as documented boats. At present, the law states that dealers may use "Dealer Numbers" on boats "owned by them," as well as for demonstration purposes. I can buy a Dealers' License for \$10.00 a year and Dealers' Numbers for \$2.00 a year. To protect myself, I would run a "mini ad" twice in a Baltimore paper as a Yacht Broker, which would cost me \$1.00 each time. Naturally, if anyone wished me to sell his boat, I would. I have now put out a total of \$14.00 annually and I purchase a boat for \$10,000.00. Instead of paying \$300.00 tax I have only the annual outlay of \$14.00 and in ten years I have not paid in 1/2 of the tax. Dealers are renting boats as automobile dealers are renting cars. We tell them that these rental boats must be sold to themselves and they pay the tax, but I believe if they went to court, they would win. DMV makes their dealers pay tax on their cars. I have not gotten too far into this rewriting but I did want you to know that we could plug some of the holes.

WILLIAM B. MATTHEWS, Jr.

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Exhibit D

THE ATTORNEY GENERAL  
1200 One Charles Center  
Baltimore, Md. 21201

August 27, 1968.

Dr. Paul D. Cooper, Director  
Fiscal Research Bureau  
301 West Preston Street  
Baltimore, Maryland 21201

Dear Dr. Cooper:

This will confirm my telephone conversation with you regarding the questions raised by Senator Meyer Emanuel, Chairman of the Special Committee to Study the Maryland Sales and Use Taxes, which were raised in your letter of July 3, 1968.

1. Can political subdivisions levy a local sales tax in Maryland?

Political subdivisions possess only those explicit taxing powers granted to them by the General Assembly. A political subdivision does not have the power to levy a local sales tax in the absence of such power being granted by the General Assembly.

2. Would it be unconstitutional to apply the Sales Tax to advertising in newspapers and on radio or television broadcasts originating in Maryland?

In *Baltimore v. A. S. Abell Co.*, 218 Md. 273 145 A2d 111 (1958) the Court of Appeals struck down two Baltimore City ordinances which imposed taxes on gross sales and gross receipts from advertising. It was held that these taxes, as applied to the newspapers, radio and television broadcasts and local purchasers of advertising, were so single in their nature and the range of their impact was so narrow that their effect constituted a restraint upon the freedoms of speech and of the press guaranteed by the First and Fourteenth Amendments to the Federal Constitution and Article 40 of the Maryland Declaration of Rights. The Court of Appeals further noted in its opinion that there were over 100,000 taxing divisions in the United States and then stated that: although there is a constant and penetrating search for new sources of revenue, we were referred to, and have found, no tax on advertising alone.

Of course, if the sales tax on advertising in newspapers, radio and television was merely another service of the many services made subject to the sales tax then the Court of Appeals' objection to such a tax on the grounds of its singleness in nature and its range in impact would not be apposite.

A tax measured by the gross receipts of a radio broadcasting business, without regard to whether such business is interstate or intrastate commerce, was held as imposing an unconstitutional burden on interstate commerce in *Fisher's Blend Station v. State Tax Com.*, 297 U.S. 650, 80 L. ed. 956 (1936) however, in *Albuquerque Broadcasting Co. v. Bureau of Revenue*, 184 P. 2d 416 (1947) a local tax on the gross receipts of a radio broadcasting business, based solely on the intrastate activities of such business was regarded as not imposing an unconstitutional burden and in *McCaw v. Fase*, 216 F2d 700, cert. den. 348 U.S. 927, 99 L. ed. 726 (9th Cir. Hawaii 1955) a gross income tax, capable of application to local activities only, was held to be a burden upon commerce as applied to a radio station.

Thus while there is no blanket constitutional prohibition to a sales tax on advertising in newspapers and on radio or television broadcasts originating in Maryland, any statute imposing such a tax would have to be precisely drawn to avoid the interstate application prohibited under the Commerce Clause (*Fisher's Blend Station v. State Tax Commission*, *supra*) and the singleness in nature and range of impact prohibitions under the freedom of speech and of the press provision of the First Amendment. (*Baltimore v. A. S. Abell Co.*, *supra*).

3. If applicable subsections of Section 326 of Article 81 were repealed, could religious and other charitable institutions be made subject to the sales tax, either as vendor or purchaser?

The General Assembly could impose a sales tax on religious and charitable institutions, either as vendor or purchaser, so long as such institutions were not singled out and made the object of a sales tax which did not apply to other vendors and purchasers in general. Such a tax might be attacked by religious institutions on the ground that it violated the free exercise clause of the First Amendment of the Constitution of the United States but it probably would not be a successful attack.

Very truly yours,

Jon F. Oster

Assistant Attorney General

**Exhibit E**  
**RECOMMENDATIONS**  
**OF THE**  
**CHAMBER OF COMMERCE OF METROPOLITAN BALTIMORE**

*Rate Increase*

If present tax sources and existing rates do not produce sufficient revenue to meet Maryland's needs and spending cannot be controlled sufficiently to avoid budget deficits, then serious consideration should be given to increasing the sales tax rate. Since Maryland has had no increase in this tax rate since 1959, and has increased the tax rate only once since the sales tax was adopted in 1947, it is apparent that a rate increase could be considered as a logical source of needed revenue to meet pressing fiscal needs. Rates of other major tax sources have been substantially increased in recent years. Significantly, sales tax rates have been increased by the vast majority of states. Currently, Maryland's 3% rate is lower than existing or proposed rates in other Eastern and neighboring states with similar fiscal problems and responsibilities (with the exception of Delaware which imposes no sales tax).

*Broaden Tax Base*

All states exempt some transactions and commodities. However, Maryland's sales tax base is restricted by certain exemptions which are not granted by other states. Elimination or modification of some of these exemptions must be considered to broaden the Maryland sales tax base to meet the increasing revenue requirements of State government. Properly imposed and administered, the sales tax is one of the best methods of apportioning the cost of government in proportion to the individual's spending. The sales tax provides an equitable method for all individuals to share in the cost of government.

Examples of exemptions unique to Maryland which should be considered for elimination or modification are: (a) personal and household use of soap, cleaning materials and detergents (revenue gain estimated at \$1.6 million annually); (b) non-prescription medicines and drugs (revenue gain estimated at \$2.5 million); (c) reduce \$1.00 exemption for restaurant meals to beginning tax bracket (revenue estimate not available), (d) reduce small sale exemptions from 25¢ to 10¢ (revenue gain estimated at \$2.6 million); (e) food for off-premises consumption (revenue gain estimated at \$46.4 million annually); (f) extend sales tax to cover admissions and eliminate separate admissions tax (revenue estimated at \$3.1 million). Although it is agreed that elimination or modification of certain exemptions may tend to make the sales tax slightly regressive, it must also be noted that the great majority of states impose the sales tax on such transactions.

*Improve Maryland's Competitive Position  
For Industrial Growth*

From the viewpoint of industry in Maryland, changes are needed to equalize the competitive impact of the sales tax upon industry and to assure the continuance of Maryland's job-providing capacity. Conceptually, a sales tax is a tax on retail sales to the ultimate consumer of products. By definition, business purchases for the production of products should be exempt from the tax to avoid double taxation (pyramiding). Therefore, machinery used in manufacturing, industrial processing, research

and development, and air and water pollution control, now taxed at a reduced rate, should be totally exempt.

This was recognized by the Joint Legislative-Executive Committee to Study Taxation and Fiscal Problems in its January, 1968 report which stated that this application of the sales tax "should be removed completely. . . ." However, faced with conflicting estimates of revenue loss, the Committee found it necessary to recommend that elimination of the sales tax on machinery and equipment used in manufacturing and research and development be accomplished in phases, a reduction from 3% to 2% in fiscal 1969 (accomplished by S.B. 209) and a further reduction to 1% in fiscal 1970. All calculations made by the Committee were predicated upon a reduction to 1% with an approximate revenue loss of \$7.5 million. At the same time, the corporate income tax rate was increased from 5.25% to 7.0% (a 33 $\frac{1}{3}$ % increase) to offset the anticipated reduction in sales tax revenue. Since business has paid for this reduction, legislation should be proposed in 1969 to implement the intent of the Joint Legislative-Executive Committee in its 1968 report.

A full exemption would make Maryland competitive with neighboring states for industrial growth, would attract new industry to the State, and stop the erosion of industry to states such as Pennsylvania, Virginia, West Virginia and Ohio. It must be remembered that, even with these changes, industry still would pay a substantial tax on purchases of property other than that used in manufacturing, research and development, and industrial processing.

A further improvement in Maryland's competitive position for industrial growth would be an exemption from sales and use tax for railroad purchases of tangible personal property to be used in their operations. The nearby states of Pennsylvania, Virginia, West Virginia and Ohio have long recognized the need to encourage railroads to modernize and expand their facilities by granting a "direct-use" exemption from the sales tax. The record is clear that industrial development and growth are encouraged by a modern railroad plant. The 1968 report of the Joint Legislative-Executive Committee recognized the extremely heavy tax burden of railroads in Maryland under the gross receipts tax. Though such receipts are not subject to income tax, this gross receipts tax is equivalent to a net income tax rate in excess of 20%. The Committee acknowledged this inequitable situation, but recommended only a minor rate reduction from 2 $\frac{1}{2}$ % to 2% because of the tax revenue involved. The proposed direct-use exemption to railroads could be granted at an annual cost in tax revenue of only \$100,000. This industry would continue to pay sales and use tax on purchases of tangible personal property not associated with operating a railroad. To the extent such a policy would match similar railroad exemptions granted by Pennsylvania and Virginia, it would aid the growth of Baltimore as a port, in competition with Philadelphia, Newport News and Norfolk.

#### *Motor Vehicle Purchases and Rentals*

Double taxation on motor vehicle purchases, rentals and registrations in Maryland can be eliminated by either of two alternatives: (a) elimination of the motor vehicle titling tax and including motor vehicle purchases under the general sales tax or (b) exemption of motor vehicle rentals from the general sales tax where the motor vehicle titling tax has been paid on their registration. The sales tax would be payable when the motor vehicle is registered and the motor vehicle bureau could collect

the tax and remit to the Comptroller. Revenues from this source could easily be dedicated by legislation to highway purposes as is presently done with the motor vehicle titling tax. Taxing motor vehicle purchases under the sales tax would accomplish the exemption of such purchases when the motor vehicle is purchased for rental purposes as is the present rule under the sales tax for all tangible personal property purchased for rental purposes. The sales tax would then be applicable to rentals only, as is the practice with other rented personal property. In addition, placing motor vehicle purchases under the sales tax would remove an inequitable and irritating tax on registration of motor vehicles when persons move into the State and bring automobiles with them on which a sales tax has been paid to another state. Maryland allows a credit for sales tax paid to other states, but allows no such credit against the motor vehicle titling tax which new residents to Maryland must pay on their automobiles.

If the motor vehicle titling tax is not eliminated, the second alternative would exempt motor vehicle rentals from the general sales tax where the titling tax has been paid. At the present time, Maryland is one of the few states imposing a double tax burden on rentals of motor vehicles for use in the State. Maryland exempts rentals of motor vehicles for use in inter-State commerce. Therefore, the only lessees paying a double tax are Maryland residents and businesses using the rented vehicles within Maryland. This change would involve an estimated revenue loss of \$900,000, but would make Maryland's tax consistent with that of other states and would aid the competitive position of motor vehicle rental businesses in Maryland.

#### *Rentals of Personal Property*

Contrary to the practice in other states, such as New York and New Jersey, Maryland taxes the gross amount of rental receipts from personal property. Included in such rentals are payment for non-taxable items furnished by the lessor, such as titling, registration, insurance, finance charges and maintenance. Maryland makes no allowance for those non-taxable items which other states exclude from the taxable rental receipts. Maryland should limit the application of the sales tax to that portion of the rental receipts applicable to the rentals of tangible personal property only and exclude that portion applicable to non-taxable items.

#### *Temporary Storage*

Maryland does not exempt property temporarily stored in the State for ultimate shipment and use outside of Maryland. This exemption is found in the Use Tax laws of many states and should be included in the Maryland law. It is a forward-looking provision because it encourages shipments of property into a state for temporary storage, thus bringing new business into the state.

The Use Tax law is complementary to the Sales Tax law. Its purpose is to prevent loss of business and evasion of payment of the sales tax by purchasing outside the state for use in the State. However, shipments of materials from a point in the State to a destination outside the State are not subject to the sales tax. The exemption from use tax of property temporarily stored in the State for subsequent use outside the State contains no element of evasion of the sales tax, and there is no loss of business to the State as the property, initially, was not purchased or manufactured for use in the State. Without this exemption, the state is losing business such as central storage in the state for subsequent distribution to and use in other states.



The sales tax is intended to apply generally to property purchased for use in the state. Therefore, this exemption would not be contrary to the legislative intent as to application of the Sales Tax law.

#### *In-State Fabrication*

Maryland's sales tax is imposed on materials purchased and fabricated into products to be transported and installed on real estate in another state. Application of the Maryland Sales Tax in this manner is a distinct detriment to Maryland manufacturers and Maryland labor since it encourages such fabrication to be performed in other states which do not impose their sales taxes in this manner. In addition, the manufacturer may be required to pay a use tax on the same materials to the state where the property is installed, thus resulting in double taxation. This inequitable situation should be corrected by exempting raw materials so employed.

#### *Collection Allowance*

Maryland should continue to allow vendors the 2% collection allowance for acting as collection agents for the State. Studies by retail businesses clearly show the cost of collection is in excess of this nominal allowance. This would continue Maryland's present practice which is in accord with the majority of states.

#### *Statute of Limitations*

The statute of limitations for assessment, audit and collection should be reduced from 6 years to 3 years. This change would put Maryland in line with the great majority of other states and would reduce the expensive and burdensome record-keeping requirements of the present statute. In addition it would make the period for assessment, audit and collection the same as the present 3-year statute for refunds to taxpayers.

#### *Direct Pay Permits*

Provision should be made for the issuance of direct pay permits to those businesses applying for them. This change would be administrative only and would not involve revenue. Authorization of direct pay permits would benefit business and the State principally through substantial reduction in administrative costs and would lend itself to simplified machine accounting.

#### *Bonding of Vendors*

The authority of the Comptroller to require surety bonds should be limited to those taxpayers who have failed to comply with statutory provisions for making returns or payments to the State. Presently the Comptroller is requiring such bonds from selected categories of business. All seeking sales tax licenses for businesses in those categories, regardless of their past record of filing returns and making payments, must post the required bonds.

#### *Exemption Certificates*

Contrary to the practice in most other states, Maryland requires exemption certificates on purchases which are exempt on their face and registration of the purchasers. To relieve this unnecessary administrative bur-

den on the State, seller and purchaser, Maryland should adopt the practice followed by most other states which requires exemption certificates only on those purchases which are exempt because of the use the purchaser will make of the property. This change would have no revenue impact but, for example, would eliminate the statutory requirement for out-of-state purchasers not doing business in the State to register. Obviously, the present Maryland procedure places an undue burden on all parties involved and is a detriment to sales by Maryland vendors to out-of-state purchasers, particularly those who can purchase from sources in other states which have no such requirement.

## Exhibit F

### PROPOSED BILL TO RESTRICT LOCAL SALES TAXES

AN ACT to repeal and re-enact, with amendments, Section 40(b) of Article II of the Baltimore City Charter, 1964 Edition, title "Baltimore City Charter," subtitle "General Powers," subheading "Additional Powers"; Section 11-51(b) of the Baltimore County Code (1958 Edition), title "Baltimore County," subtitle "Finance and Taxation Generally," subheading "Division 4. Taxes"; Section 2-129(b) of the Montgomery County Code (1965 Edition), title "Montgomery County," subtitle "Administration," subheading "Division 4. Taxation Generally"; to provide that the additional taxing powers granted to Baltimore City, Baltimore County and Montgomery County in relation to Article 81, Sections 324-371, inclusive, "Retail Sales Tax Act," and Sections 372-401, inclusive, "Maryland Use Tax," shall be restricted to such exercise of said powers in effect on January 1, 1969; and to correct an error therein.

1     SECTION 1. *Be it enacted by the General Assembly of Maryland,*  
2     That Section 40(b) of Article II of the Baltimore City Charter, 1964  
3     Edition, title "Baltimore City Charter," subtitle "General Powers,"  
4     subheading "Additional Powers"; Section 11-51(b) of the Baltimore  
5     County Code (1958 Edition), title "Baltimore County," subtitle "Fi-  
6     nance and Taxation Generally," subheading "Division 4. Taxes,";  
7     and Section 2-129(b) of the Montgomery County Code (1965 Edi-  
8     tion), title "Montgomery County," subtitle "Administration," sub-  
9     heading "Division 4. Taxation Generally," be and they are hereby  
10    repealed and re-enacted, with amendments, to read as follows:

11   40.

12   (b) The Mayor and City Council of Baltimore shall not have the  
13   power to impose any tax upon intangible personal property or upon  
14   the subject matter of Sections 242 to 261 of Article 56 of the Code  
15   of Public General Laws of Maryland (gasoline tax); Section 74 of  
16   Article 66½ (motor vehicle registration); Section 25A of Article  
17   66½ (titling tax); Sections 293 and 294 of Article 56 and Section  
18   218 of Article 81 (motor vehicle taxation); Section 7(32) of Article  
19   81 (Class A and Class D Motor Vehicles); Sections 222 to 258 of  
20   Article 81 (tax on incomes); Article 78B (horseracing and pari-  
21   mutuel betting); Sections 141 and 143 of Article 81 (bonus tax);  
22   Sections 144 to 147 of Article 81 (tax on franchise to be a corpora-  
23   tion); Section 5 of Article 23 (recording corporate papers); Section

24 94 of Article 81 (deposits of savings banks); Sections 101 to 103F  
25 of Article 81 (insurance premiums); Sections 109 to 140 of Article  
26 81 (inheritance); Article 62A (estate tax); or Section 104 of Article  
27 81 (tax on commissions of executors and administrators), or  
28 *Sections 324 to 371, inclusive, of Article 81, Retail Sales Tax Act, or*  
29 *Sections 372 to 401, inclusive, of Article 81, Maryland Use Tax, ex-*  
30 *cept as such powers were exercised prior to January 1, 1969; but*  
31 *the limitations herein shall not apply to any tax levied or imposed*  
32 *upon the gross receipts of any person, association or corporation*  
33 *other than the gross receipts of corporations taxed under Section 95*  
34 *of Article 81 of the Code, savings banks, insurance companies, safe*  
35 *deposit and trust companies, and the gross receipts of a person,*  
36 *association or corporation conducting race meetings; provided, how-*  
37 *ever, that Baltimore City, in taxing the receipts from motor vehicle*  
38 *operations, may only tax receipts from operations of motor vehicles*  
39 *having a permit or permits from the Public Service Commission of*  
40 *Maryland authorizing both the taking on and discharging of passen-*  
41 *gers at more than one point within Baltimore City and/or the trans-*  
42 *portation of passengers between two or more points within said city.*

1 11-51.

2 (b) Provided, that the county shall not have the power to impose  
3 any tax upon wines or malt beverages, intangible personal property  
4 or upon the subject matter of Annotated Code of Maryland, 1957,  
5 Sections 135 to 157 of Article 56 (Gasoline Tax); Section 81 of Article  
6 66½ (Motor Vehicle Registration); Section 29 of Article 66½  
7 (Titling Tax); Sections 181 to 190 of Article 56 and Section 273 of  
8 Article 81 (Motor Vehicle Taxation); Section 9(32) of Article 81  
9 (Class A and Class D Motor Vehicles); Sections 279 to 323 of Article  
10 81 (Tax on Incomes); Article 78B (Horseracing and Pari-Mutuel  
11 Betting); Sections 194 and 195 of Article 81 (Bonus Tax); Sections  
12 197 to 201 of Article 81 (Tax on Franchise to be a Corporation);  
13 Sections 129 and 130 of Article 23 (Recording Corporate Papers);  
14 Section 128 of Article 81 (Deposits of Savings Banks); Sections 135  
15 to 143 of Article 81 (Insurance Premiums); Sections 149 to 193 of  
16 Article 81 (Inheritance); Article 62A (Estate Tax); or Section 144  
17 of Article 81 (Tax and Commissions of Executors and Administra-  
18 tors); *or Sections 324 to 371, inclusive, of Article 81, Retail Sales Tax*  
19 *Act, or Sections 372 to 401, inclusive, of Article 81, Maryland Use*  
20 *Tax, except as such powers were exercised prior to January 1, 1969;*  
21 *nothing in this section shall be construed to authorize the county to*  
22 *impose a tax upon the gross receipts of any person in the county;*  
23 *provided, however, that county in taxing the receipts, from motor*  
23a *vehicle operations, may only tax receipts from operations of motor*  
24 *vehicles having a permit or permits from the Public Service Com-*  
25 *mission of Maryland authorizing both the taking on and discharging*  
26 *of passengers at more than one point within the county and/or the*  
27 *transportation of passengers between two or more points within the*  
28 *county.*

29 2-129.

1 (b) Exceptions. Provided, that the council shall not have the  
2 power to impose any tax upon any alcoholic beverages, intangible  
3 personal property or upon the subject matter of Annotated Code of  
4 Maryland, 1957, Sections 135 to 157 of Article 56 (gasoline tax);  
5 Section 81 of Article 66½ (motor vehicle registration); Section 29 of  
6 Article 66½ (titling tax); Sections 181 to 190 of Article 56 and

7 Section 273 of Article 81 (motor vehicle taxation); Section 9(32) of  
8 Article 81 (Class A and Class D motor vehicles); Sections 279 to 323  
9 of Article 81 (tax on incomes); Article 78B (horseracing and  
10 [pari-mutual] pari-mutuel betting); Sections 194 and 195 of  
11 Article 81 (bonus tax); Sections 197 to 201 of Article 81 (tax on  
12 franchise to be a corporation); Sections 129 and 130 of Article 23  
13 (recording corporate papers); Section 128 of Article 81 (deposits of  
14 savings banks); Sections 135 to 143 of Article 81 (insurance pre-  
15 miums); Sections 149 to 193 of Article 81 (inheritance); Article  
16 62A (estate tax); or Section 144 of Article 81 (tax on commissions  
17 of executors and administrators); or Sections 431 to 464 of Article  
18 81 (State Tobacco Tax Act) or Sections 12-A and 12-B of Article 81  
19 (sales tax and gross receipt tax on advertising, etc.) to the extent  
20 applicable; or Sections 324 to 371, inclusive, of Article 81, Retail  
21 Sales Tax Act, or Sections 372 to 401, inclusive, of Article 81, Mary-  
22 land Use Tax, except as such powers were exercised prior to January  
23 1, 1969; or any other tax prohibited to a political subdivision of this  
24 state by any applicable statewide law; nothing in this section shall  
25 be construed to authorize the county to impose a tax upon the  
26 gross receipts of any person in the county; provided, however, that  
27 the county in taxing the receipts, from motor vehicle operations,  
28 may only tax receipts from operations of motor vehicles having a  
29 permit or permits from the public service commission of Maryland  
30 authorizing both the taking on and discharging of passengers at  
31 more than one point within the county and/or the transportation of  
32 passengers between two or more points within the county.

33 SEC. 2. *And be it further enacted*, That this Act shall take effect  
34 July 1, 1969.

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### Exhibit G

#### PROPOSED BILL TO REQUIRE TITLING OF ALL BOATS

AN ACT to repeal and re-enact, with amendments, Sections 4A and 5 of Article 14B of the Annotated Code of Maryland (1968 Replacement Volume), title "State Boat Act," and to repeal Section 4B of said Article of said Code, to provide that all vessels principally used upon the waters of Maryland shall be required to be numbered and titled, with certain exceptions as provided by law.

1 SECTION 1. *Be it enacted by the General Assembly of Maryland*,  
2 That Sections 4A and 5 of Article 14B of the Annotated Code of  
3 Maryland (1968 Replacement Volume), title "State Boat Act," be  
4 and they are hereby repealed and re-enacted to read as follows, and  
5 that Section 4B of said Article of said Code be and it is hereby  
6 repealed.

1 4A.

2 (a) [Except as provided in Section 4B, every] Every owner of  
3 a vessel principally used upon the waters of Maryland and required  
4 to be numbered by this State as set forth in Section 5 of this article  
5 shall make application to the Department for a certificate of title  
6 for the vessel.

7 (b) [Except as provided in Section 4B, the] The Department  
8 shall not issue or renew a certificate of number to any vessel required  
9 to be registered and numbered in this State unless a certificate of  
10 title has been issued by the Department to the owner.

1 5.

2 (a) Numbering required; exceptions.—Every vessel [, except  
3 those manually propelled,] found upon the waters of Maryland shall  
4 be numbered for identification in accordance with this article and  
5 any regulations supplementary thereto except:

6 (1) A vessel which has a valid document issued by the Bureau  
7 of Customs of the United States or any federal agency successor  
8 thereto;

9 (2) A vessel with a valid number awarded to it pursuant to fed-  
10 eral law or a federally approved numbering system of another state,  
11 provided that such boat shall not have been in Maryland in excess of  
12 ninety days and the number so awarded is displayed in accordance  
13 with the requirements of that system and the certificate of number  
14 is available for inspection whenever the vessel is in use;

15 (3) A vessel from a country other than the United States tem-  
16 porarily using the waters of Maryland;

17 (4) A vessel which is owned by the United States government,  
18 another state, or any political subdivision thereof, used in service  
19 of the public;

20 (5) A ship's lifeboat;

21 [(6) A vessel under twenty-five (25) feet in length propelled  
22 only by sail;]

23 [(7) A vessel equipped with propelling machinery of seven and  
24 one-half horsepower or under.]

25 (8) The Commission may, by regulation from time to time and  
26 for such periods as they prescribe, exempt any vessel or class of  
27 vessels from the numbering provisions of this article; provided, that  
28 any such vessel or class of vessels has been exempted from the num-  
29 bering requirements by federal statute or regulations.

1 SEC. 2. *And be it further enacted*, That this Act shall take effect  
2 July 1, 1969.

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## Exhibit H

### PROPOSED BILL TO EXEMPT NUCLEAR FUEL ASSEMBLIES

AN ACT to repeal and re-enact, with amendments, Section 324(f) (4) of Article 81 of the Annotated Code of Maryland (1965 Replacement Volume and 1968 Supplement), title "Revenue and Taxes," subtitle "Retail Sales Tax Act," to include the nonsalvageable portion of nuclear fuel assemblies among the fuels covered by this subsection, thus exempting them from sales tax when used in manufacturing, assembling, processing or refining.

1 SECTION 1. *Be it enacted by the General Assembly of Maryland,*  
2 *That Section 324(f)(4) of Article 81 of the Annotated Code of*  
3 *Maryland (1965 Replacement Volume and 1968 Supplement), title*  
4 *"Revenue and Taxes," subtitle "Retail Sales Tax Act," be and it is*  
5 *hereby repealed and re-enacted, with amendments, to read as follows:*

1 324.

2 (f) "Retail sale" and "sale at retail" shall mean the sale in any  
3 quantity or quantities of any tangible personal property or service  
4 taxable under the terms of this subtitle. Said term shall mean all  
5 sales of tangible personal property to any person for any purpose  
6 other than those in which the purpose of the purchaser is (i) to  
7 resell the property so transferred in the form in which the same is,  
8 or is to be received by him, (ii) to destroy the property so trans-  
9 ferred in the manufacturing, assembling, processing or refining of  
10 other tangible personal property to be produced for sale, or (iii) to  
11 use or incorporate the property so transferred as a material or part,  
12 of other tangible personal property to be produced for sale by manu-  
13 facturing, assembling, processing or refining. Tangible personal  
14 property shall be considered to be destroyed in manufacturing, proc-  
15 essing, assembling or refining if it is changed in nature by reason of  
16 its use in a relatively short period of time, as the nature of coal is  
17 changed by burning, as refractories which come in direct contact  
18 with molten metals are changed by heat and abrasion, as grinding  
19 wheels are reduced to dust, as acids are changed by contamination,  
20 and so forth. Property which is broken or mutilated shall not be  
21 considered to be destroyed. Tangible personal property shall not be  
22 considered to be destroyed in such operations if its value as property  
23 is ordinarily dissipated through the gradual wear or tear incident  
24 to its use. Machinery and small tools shall not be considered to be  
25 destroyed in such operations. The terms "manufacturing," "assem-  
26 bling," "processing," and "refining" shall not include (A) maintain-  
27 ing, servicing, or repairing; (B) testing finished products; or (C)  
28 [research and development; or (D)] providing for the comfort or  
29 health of employees. For the purpose of the tax imposed by the sub-  
30 title, the term "sale at retail" shall include but shall not be limited  
31 to the following:

32 (4) The sale of natural or artificial gas, oil, electricity, coal or  
33 steam, *the nonsalvageable portion of nuclear fuel assemblies*, when  
34 made to any purchaser for purposes other than resale or for use in  
35 manufacturing, assembling, processing or refining.

1 SEC. 2. *And be it further enacted,* That this Act shall take effect  
2 July 1, 1969.

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### Exhibit I

#### PROPOSED BILL TO REPEAL EXEMPTION OF CERTAIN CASUAL SALES

AN ACT to repeal and re-enact, with amendments, Section 326(e) of Article 81 of the Annotated Code of Maryland (1965 Replacement Volume), title "Revenue and Taxes," subtitle "Retail Sales Tax Act," to repeal the exemption on casual sales under certain conditions.

1     **SECTION 1.** *Be it enacted by the General Assembly of Maryland,*  
2     That Section 326(e) of Article 81 of the Annotated Code of Mary-  
3     land (1965 Replacement Volume), title "Revenue and Taxes," sub-  
4     title "Retail Sales Tax Act," be and it is hereby repealed and re-  
5     enacted, with amendments, to read as follows:

6     326.

7     The tax hereby levied shall not apply to the following sales:

8     (e) Casual and isolated sales by a vendor who is not regularly  
9     engaged in the business of selling tangible personal property [and  
10    the use of an auctioneer shall not make a sale taxable which other-  
11    wise is not taxable under this subsection] *provided, however, that*  
12    *this exemption shall not apply to casual sales for amounts of \$1,000*  
13    *or more, and/or which are made through an auctioneer or other*  
14    *regular dealer.*

1     **SEC. 2.** *And be it further enacted,* That this Act shall take effect  
2     July 1, 1969.

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#### Exhibit J

#### PROPOSED BILL TO REPEAL EXEMPTION OF CERTAIN SALES MADE BY RELIGIOUS ORGANIZATIONS

AN ACT to repeal and re-enact, with amendments, Section 326(w-1)  
of Article 81 of the Annotated Code of Maryland (1965 Replace-  
ment Volume), title "Revenue and Taxes," subtitle "Retail Sales  
Tax Act," to remove the exemption from sales tax on sales made  
by religious organizations when they are made in the regular  
course of business in competition with others.

1     **SECTION 1.** *Be it enacted by the General Assembly of Maryland,*  
2     That Section 326(w-1) of Article 81 of the Annotated Code of Mary-  
3     land (1965 Replacement Volume), title "Revenue and Taxes," sub-  
4     title "Retail Sales Tax Act," be and it is hereby repealed and re-  
5     enacted, with amendments, to read as follows:

6     326.

7     The tax hereby levied shall not apply to the following sales:

8     (w-1) Sales made by a bona fide church or religious organiza-  
9     tion, when made for the general purposes of the church or religious  
10    organization, *provided, however, that this exemption shall not apply*  
11    *to sales made in the regular course of business in competition with*  
12    *others.*

1     **SEC. 2.** *And be it further enacted,* That this Act shall take effect  
2     July 1, 1969.

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#### Exhibit K

#### PROPOSED BILL TO PROVIDE FOR ISSUANCE OF DIRECT PAY PERMITS

AN ACT to add new Section 360A to Article 81 of the Annotated  
Code of Maryland (1965 Replacement Volume) title "Revenue

and Taxes," subtitle "Retail Sales Tax Act," to follow immediately after Section 360 thereof; and to repeal and re-enact, with amendments, Sections 333, 361 and 399 of said code and title, subtitles "Retail Sales Tax Act," and "Maryland Use Tax," respectively, to provide for issuance of Direct Pay Permits by the Comptroller to authorize direct payment to the Comptroller of sales and use taxes imposed on purchase, use, storage or other consumption of tangible personal property, or services.

1     SECTION 1. *Be it enacted by the General Assembly of Maryland,*  
2     That new Section 360A be and it is hereby added to Article 81 of the  
3     Annotated Code of Maryland (1965 Replacement Volume) title  
4     "Revenue and Taxes," subtitle "Retail Sales Tax Act," to follow  
5     immediately after Section 360 thereof; and that Sections 333, 361  
6     and 399 of said Code and title, subtitles "Retail Sales Tax Act," and  
7     "Maryland Use Tax," be and they are hereby repealed and re-enacted,  
8     with amendments, all to read as follows:

1     360A.

2     *Upon application by any licensee registered under this act, the*  
3     *Comptroller in his discretion, may issue to the applicant subject to*  
4     *terms and conditions the Comptroller deems reasonable and*  
5     *necessary, a permit to be known as a Direct Payment Permit author-*  
6     *izing the permittee to make direct payment to the Comptroller of*  
7     *any sales tax or use tax imposed on any purchase, use, storage, or*  
8     *other consumption of tangible personal property or services by the*  
9     *permittee. The permittee may elect to pay the taxes directly to the*  
10    *Comptroller and for that purpose may issue to the vendor or lessor*  
11    *selling or furnishing the tangible personal property or services sub-*  
12    *ject to the taxes evidence of his Direct Payment Permit assuming*  
13    *the payment of the taxes. Receipt of evidence of a Direct Payment*  
14    *Permit discharges the vendor or lessor from any duty to collect or*  
15    *liability for the taxes. Such Direct Payment Permit may be revoked*  
16    *by the Comptroller for cause at any time.*

1     333.

2     It shall be presumed that all sales of tangible personal property  
3     and services mentioned in this subtitle are subject to tax until the  
4     contrary is established, and the burden of proving that a sale is not  
5     taxable hereunder shall be upon the vendor or the purchaser as the  
6     case may be. Unless the vendor shall have taken from the purchaser  
7     a certificate signed by and bearing the name and address of the  
8     purchaser and the number of his registration certificate to the effect  
9     that the property or service was purchased for resale, the sale shall  
10    be deemed a taxable sale at retail. The certificate herein required  
11    shall be in such form as the Comptroller shall, by regulation, pre-  
12    scribe and in case no certificate is furnished or obtained prior to the  
13    time the same is consummated, *as provided in Section 360A*, the  
14    tax shall apply as if the sale were made at retail.

1     361.

2     Each applicant for a license required by Section 360 and Section  
3     360A of this subtitle shall on or before the first day of July, 1947,  
4     make out and deliver to the Comptroller, upon a blank to be furnished  
5     by him for that purpose, a statement showing the name of the appli-



6 cant, each retail establishment where the applicant's business is to  
7 be conducted, the kind or nature of such business and such other  
8 information as the Comptroller may prescribe.

1 399.

2 All provisions not inconsistent with the provisions of this subtitle  
3 in Sections 344 and 345 of this article relating to failure to file re-  
4 turns and incorrect returns; in Sections 347-350, both inclusive, of  
5 this article relating to refunds; in Sections 351 and 352 of this article  
6 relating to revisions and appeals; in Sections 357-359, both inclusive,  
7 of this article relating to records, investigations and hearings; in  
8 *Section 360A relating to Direct Pay Permits*; in Section 365 of this  
9 article relating to general powers of the Comptroller; in Sections  
10 367 and 368 relating to general provisions; in Section 369 of this  
11 article relating to penalties; and in Section 370 of this article re-  
12 lating to disposition of proceeds are hereby made a part of this sub-  
13 title and shall be applicable hereto.

1 SEC. 2. *And be it further enacted*, That this Act shall take effect  
2 July 1, 1969.

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#### Exhibit L

### PROPOSED BILL TO CHANGE PERIOD OF LIMITATION FOR COLLECTION OF SALES AND USE TAXES

AN ACT to repeal and re-enact, with amendments, Sections 342(a)  
and 393(a) of Article 81 of the Annotated Code of Maryland  
(1965 Replacement Volume), title "Revenue and Taxes," subtitles  
"Retail Sales Tax Act" and "Maryland Use Tax," respectively, to  
change the period of limitation for collection of Sales and Use  
Taxes, and to further provide that proof of fraud, or gross negli-  
gence shall remove the bar to the statute, and defining gross  
negligence.

1 SECTION 1. *Be it enacted by the General Assembly of Maryland*,  
2 That Sections 342(a) and 393(a) of Article 81 of the Annotated  
3 Code of Maryland (1965 Replacement Volume), title "Revenue and  
4 Taxes," subtitles "Retail Sales Tax Act" and "Maryland Use Tax,"  
5 respectively, be and they are hereby repealed and re-enacted, with  
6 amendments, to read as follows:

1 342.

2 (a) The tax imposed by this subtitle and all increases, interests  
3 and penalties thereon shall become, from the time due and payable,  
4 a personal debt of the person liable to pay the same to the State of  
5 Maryland. An action may be brought at any time within [six (6)]  
6 four (4) years from the time the tax shall be due and payable by the  
7 Comptroller in the name of the State to recover the amount of any  
8 taxes, penalties and interest due under the provisions of this subtitle,  
9 [but such actions shall be utterly barred after the expiration of  
10 the aforesaid six (6) years] *but if there is proof of fraud or gross*  
11 *negligence, there shall be no limitation of the period in which the*

12 *action may be brought. Proof of negligence amounting to twenty-*  
13 *five per cent (25%) or more of the tax due shall be prima facie*  
14 *evidence of gross negligence.*

1 393.

2 (a) The tax imposed by this subtitle and all increases, interests  
3 and penalties thereon shall become, from the time due and payable  
4 a personal debt of the person liable to pay the same to the State of  
5 Maryland. An action may be brought at any time within [six (6)]  
6 four (4) years from the time the tax shall be due and payable by the  
7 Comptroller in the name of the State to recover the amount of any  
8 taxes, penalties and interest due under the provisions of this sub-  
9 title, [but such actions shall be utterly barred after the expiration  
10 of the aforesaid six (6) years] but if there is proof of fraud or gross  
11 negligence, there shall be no limitation of the period in which the  
12 action may be brought. Proof of negligence amounting to twenty-  
13 five per cent (25%) or more of the tax due shall be prima facie  
14 evidence of gross negligence.

1 SEC. 2. And be it further enacted, That this Act shall take effect  
2 July 1, 1969.

#### Exhibit M

#### PROPOSED BILL CONCERNING USE TAX ON PROPERTY STORED IN MARYLAND

AN ACT to add new Section 374A to Article 81 of the Annotated Code of Maryland (1965 Replacement Volume), title "Revenue and Taxes," subtitle "Maryland Use Tax," to follow immediately after Section 374 thereof, to provide that Use Tax must be paid on the purchase price of all taxable personal property which is purchased for storage in Maryland on or after July 1, 1969, and allowing for refund under certain conditions.

1 SECTION 1. *Be it enacted by the General Assembly of Maryland,*  
2 *That new Section 374A be and it is hereby added to Article 81 of the*  
3 *Annotated Code of Maryland (1965 Replacement Volume), title*  
4 *"Revenue and Taxes," subtitle "Maryland Use Tax," to follow imme-*  
5 *diately after Section 374 thereof, and to read as follows:*

6 374A.

7 *The Use Tax shall be paid on the purchase price of all taxable*  
8 *personal property which is purchased for storage in Maryland on*  
9 *and after July 1, 1969. Taxable personal property intended solely*  
10 *for use in other States, but which is stored in Maryland pending*  
11 *shipment to another State shall not be subject to the Use Tax. The*  
12 *tax in these instances shall be paid at the time of the importation*  
13 *or storage of the property within the State and a subsequent credit*  
14 *or refund shall be taken by the taxpayer for the amount so paid upon*  
15 *removal of the property from the State, in accordance with pro-*  
16 *cedures established by the Comptroller.*

1 SEC. 2. And be it further enacted, That this Act shall take effect  
2 July 1, 1969.

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